REPORT RESUMES

ED 019 322 UD 004 015

ALTERNATIVES TO INCARCERATION. STUDIES IN DELINQUENCY.

BY- EMPEY, LAMAR T.

OFFICE OF JUVENILE DELIQUENCY AND YOUTH DEV. (DHEW)

REPORT NUMBER JD-PUB-9001 PUB DATE 67
EDRS PRICE MF-$0.50 HC-$3.84 94P.

DESCRIPTORS- *DELINQUENT REHABILITATION, *COMMUNITY PROGRAMS, *REHABILITATION PROGRAMS, *CRIMINALS, *ADULTS, CORRECTIVE INSTITUTIONS, DELINQUENTS, COMMUNITY ACTION, REHABILITATION, COURT ROLE, JUVENILE COURTS, ESSEXFIELDS, PROVO EXPERIMENT, SYNANON, CALIFORNIA YOUTH AUTHORITY, HALFWAY HOUSES, COMMUNITY TREATMENT PROJECT, HIGHFIELD PROGRAM, SILVERLAKE EXPERIMENT, CALIFORNIA, NEW JERSEY

THIS EXTENSIVE REPORT DISCUSSES VARIOUS CORRECTIONAL PRACTICES FOR ADULT AND JUVENILE OFFENDERS, AND DESCRIBES POSSIBLE ALTERNATIVES. ALTERNATIVES TO PRETRIAL INCARCERATION OF ADULT OFFENDERS ARE SUPERVISED RELEASE, DAYTIME RELEASE, RELEASE IN THE CUSTODY OF A THIRD PARTY, SUMMONS INSTEAD OF ARREST, AND REVISED BAIL PROCEDURES. ALTERNATIVES TO ACTUAL IMPRISONMENT INCLUDE FINES AND RESTITUTION BY INSTALLMENT, WORK FURLOUGHS, SUSPENDED SENTENCES, PROBATION, AND PLACEMENT IN ADULT RESIDENTIAL CENTERS. AMONG THE PRACTICES DESCRIBED AS SUITABLE FOR THE POST-INCARCERATION PERIOD ARE PAROLE, PRE-RELEASE TRAINING, LOANS FOR RELEASED PRISONERS, UNEMPLOYMENT INSURANCE, AND HALFWAY HOUSES. ALTERNATIVE PRACTICES FOR JUVENILE OFFENDERS INCLUDE NONRESIDENTIAL COMMUNITY PROGRAMS AND RESIDENTIAL GROUP CENTERS IN PLACE OF TOTAL INCARCERATION. THE IMPORTANCE OF PRETRIAL RELEASE OF JUVENILE OFFENDERS IS PARTICULARLY STRESSED. THIS DOCUMENT IS ALSO AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE, WASHINGTON, D.C. 20402, FOR $0.40. (LB)

ED019322

UD 004015

STUDIES IN DELINQUENCY

Alternatives to Incarceration

LaMar T. Empey

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL OFFICE OF EDUCATION POSITION OR POLICY.

U. S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
Welfare Administration
Office of Juvenile Delinquency and Youth Development
1967

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C., 20402 · Price 40 cents

FOREWORD

This document by Dr. LaMar T. Empey, of the Youth Studies Center, University of Southern California, provides a broad view of correctional systems and philosophies, and examines several recent approaches toward furnishing alternatives to incarceration. It is published by the Office of Juvenile Delinquency and Youth Development as one of a series designed to bring together present thinking on important aspects of crime prevention and control. Publication, however, does not necessarily constitute official endorsement of this document, either by this Office or the Department of Health, Education, and Welfare.

ELLEN WINSTON
COMMISSIONER OF WELFARE
WELFARE ADMINISTRATION

CONTENTS

Foreword iii
Part I—Correctional History 1
Part II—Pre-trial Period 12
Part III—Post-trial Period 29
Part IV—Post-incarceration Period 54
Part V—Summary, Conclusions, and Emergent Issues. .70

PART I CORRECTIONAL HISTORY

Current trends in reactions to crime are best understood in terms of an historical perspective. Correctional practices have been revolutionized twice in the past two centuries and these revolutions have important implications for contemporary development.[1]

The first revolution occurred in the late 18th and early 19th centuries and was generated, in part, by the growth of western democracy and, in part, by the rational philosophers and legalists of that period. The latter had two objectives in mind. First, they wished to establish a more rational and equitable legal system. They reacted against the practice of basing penalties for crime on whether the offender and his victim were noblemen or commoners. All men, they believed, should be treated equally, not according to their stations in life, but according to the crimes they had committed.

Second, they wished to make punishment more humanitarian. They believed that imprisonment should be substituted for the earlier forms of exile, execution, and corporal punishment. Imprisonment would serve as the *means of eliminating the cruelties* and excesses of that time. Accordingly, imprisonment became the predominant penalty for felonies in most of the western world during the 19th century.[2]

The causation assumptions upon which these philosophers based their corrective policies were that men are rational beings who operate on a pleasure-pain principle, doing that which gives them pleasure and avoiding that which gives them pain. They believed, therefore, that reactions to crime should be rationally based on the same principle: light punishment for light crimes, heavy punishment for serious crimes, making sure in each case that the pain of punishment slightly exceeds the pleasure of the crime. By utilizing imprisonment and establishing, by statute, a prescribed punishment for each kind of offense, they believed that they could control crime effectively.

Given this conceptual framework, the objectives that were imposed upon correctional facilities were relatively clear and straightforward: the offender was to be punished and society was to be protected. Imprisonment would not only be more humane but would also help to deter other rational men from crime. It would be a lesson, teaching that crime does not pay.

This approach pervaded the legal practices of western civilization and it has by no means been totally abandoned. It is still very much a part of our normative and legal structure today. Nevertheless, it has been shown to have several deficiencies.

Imprisonment has not worked out as an impartial and uniform reaction to crime. All criminals are not caught and legislatures cannot prescribe, like a pill, the way courts and correctional organizations should react to each offender depending, not upon situational or personal characteristics but upon the crime he committed. It is simply too mechanistic a procedure to deal with the complex problems that characterize crime and criminals.

Second, the desired deterrent and rehabilitative effect of imprisonment was not borne out by accumulated evidence. Crime did not decrease, especially where long and repeated imprisonment was involved. It seemed to increase rather than decrease the likelihood of further violations. Furthermore, punishment through imprisonment was not universally applicable or adequate for such offenders as drug addicts, sexual psychopaths, the mentally deficient, or the mentally ill.

Finally, the number of prisoners confined continued to increase, resulting in constantly overcrowded prisons. The result not only questioned whether imprisonment was a more humanitarian response to crime but made it clear that the cost of imprisonment would eventually be prohibitive. The cost of housing, guarding, and meeting all the needs of prisoners would eventually become too great for society to bear.

The late 19th and early 20th centuries, therefore, were marked by a decline in this classical approach to corrections and a second revolution was introduced. In addition to the problems generated by the first revolution, the second revolution gained impetus through the growth of Freudian psychology and the social sciences. Freudian psychology, for example, suggested that crime is not always a deliberate defiance of social norms but may be an unconscious response to personal problems. The offender may be *sick* rather than *wicked.* His violation of rules is more an illness than a conscious choice to do wrong.[3]

The social sciences, meanwhile, pointed to the influence of complex learning processes, to conflicting subcultural influences, and to conditions of class and ethnicity as sources of nonconformity, rather than a deliberate misuse of free will. The result was a tendency to view the offender as a deprived or handicapped person whose major deficiencies were to be found in his mental or emotional make-up. Treatment rather than punishment was called for, professionalism and specialization rather than a generalized response.

The treatment orientation that was introduced resulted in two striking changes in legal and correctional decision making: (1) a *deferral* of correctional decisions from the time of sentencing, and (2) a *division* of responsibilities among more persons for making those decisions about the offender.[4] Prior to the second revolution, a criminal's fate was almost always decided once his guilt was established. The court was expected to impose sentence as defined by statute. If imprisonment was used, the legal system not only specified an exact duration for the penalty but even designated the institution to be used and the program to be followed, such as solitary confinement or hard labor.

With the introduction of the second revolution, however, all of this began to change. Statutes were introduced which permitted the court to defer sentencing decisions until the offender could be studied and recommendations made to the judge. Probation officers, psychiatric consultants, and others became advisors to the court. Decision responsibility was divided. Furthermore, it was divided not only among people close to the court, but throughout the whole correctional process. The indeterminate sentence was also introduced so that classification processes and decision making within correctional systems were the means by which an offender's fate was decided.

In many systems, specialized treatment programs were added and housed in diversified correctional institutions. Maximum, medium, and minimum security prisons were established; forestry camps, farms, or small cottage programs were designed. Hypothetically, these were expected to respond to classes of offenders, rather than to classes of crimes: juveniles, addicts, sex offenders, habitual criminals. Specialized treatment also made use of professional counseling, psychotherapy, and medical care, as well as the more conventional academic and vocational training.

The result was such specialized roles for correctional people as administration, care and feeding, control, casework, education, therapy, vocational training. Planning was separated from operations, and treatment separated from custody. Even after incarceration, the use of parole further deferred the sentencing decision formerly exercised by the court and lodged it, instead, in parole boards and parole officers. Thus, at least in theory, the response of corrections during the second revolution concentrated much more upon the individual than upon his crime, more upon divided and deferred decision making than upon legal prescription and court action.

The shift of large masses of people from rural to urban environments contributed also to the increases in professionalization and specialization. As the informal controls and functions of the rural family and neighborhood diminished, such complex formal systems as police, court, welfare, juvenile court, probation, and parole were given the responsibility of responding formally to the commission of crime. In the larger cities these formal systems became complex bureaucracies and the people who manned them became the formal agents of social control.

Yet, despite these developments, there has been a disturbing accumulation of negative evidence relative to the efficacy of the second revolution. Current practices are undoubtedly more humane than earlier forms of punishment, but delinquency and recidivism seem to have continued at a high rate and the few studies of individualized treatment that are available present discouraging results.

On one hand, there is some indication that, through specialization, the occupational and educational skills of offenders are being increased and that, within correctional programs, attitudes are being changed. But somehow, these changes are not translated to the community where the offender's adjustment is submitted to the ultimate test. Programs do not seem to address adequately what seem to be some of his most important problems, those having to do with his interaction with, and reintegration into, the law-abiding community.

There is a long list of difficult, unanswered questions: is individualized and specialized treatment the answer? Do our efforts result in a correctional approach which constitutes a coherent system throughout? Are specialized functions related logically to each other and to the factors which lead to crime? Are the criminals with whom we deal a representative population or only the tip of a criminal iceberg which remains largely unstudied and untouched? In our concern with individual offenders, are we not missing other variables which may be crucial in determining the success or failure of correctional programs?

Current trends seem, even if indirectly, to be in response to such questions. It is Schrag's opinion, therefore, that we are in the early stages of a third major correctional revolution,[5] one whose philosophy is characterized by two main features. The first suggests that society, itself, is badly in need of change. As Schrag puts it:

> "It is generally recognized that various kinds of unconventional behavior are sometimes richly rewarded. Wealth, power and prestige are frequently highly regarded irrespective of the means by which they are achieved. Political corruption and white-collar crime are often viewed as unavoidable nuisances. But there is also increasing evidence of public demand for control in these areas. New attention is being devoted to the tendency for some respected and influential persons to be favorably disposed toward illegitimate activities if they provide sufficient material benefits and good prospects for escaping detection or censure. These are some of the previously neglected aspects of crime and correction that are attracting the systematic attention of correctional experts."

The second feature of the rising philosophy places more emphasis on the compelling pressures that are exerted upon the offender by persons living in his community, by the social groups to which he belongs, by our overall culture and, within it, a host of dissonant subcultures. It is the cultural and subcultural matrix from which the offender comes that prescribes his goals and his standards of conduct. And it is this matrix which will heavily influence whether he will become a success or a failure, a criminal or a law-abiding citizen.

Delinquency and crime and reactions to them are social products and are socially defined. Society, not individuals, defines rules, labels those who break rules, and prescribes ways for reacting to the labeled person. There are times when the societal process of defining, labeling, and reacting is problematic, times when it is far more influential in determining who shall enter the correctional process and what its outcome will be than techniques designed solely to change offenders.[6]

The labeling process is often a means of isolating offenders from, rather than integrating them in, effective participation in such major societal institutions as schools, businesses, unions, churches, and political organizations. These institutions are the major access to a successful, nondelinquent career. Those who are in power in them are the gatekeepers of society and, if offenders and correctional programs are isolated from them, then the personal wishes and characteristics of offenders will have only marginal bearing on whether correctional programs succeed or fail.

This is not to deny individual differences, nor the importance of inculcating individual responsibility, but it does make clear that correctional techniques are terribly nearsighted which fail to take into account the offender's social and cultural milieu. Successful adjustment on his part will require some kind of personal reformation but it will also require conditions within the community which will encourage his reintegration into nondelinquent activities and institutions. Fundamentally, this is a community function. Reintegration may succeed or fail depending upon the community's labeling and reacting processes. If they are such as to permit the offender to discard the label of criminal and to adopt another label, the integration process will be aided. But, if they insist on holding the former offender at arm's length, then any desire on his part for reintegration may be of little consequence. Until the labeling and reacting processes are changed he will remain, by definition, an offender, an outsider.

It is at this point that the third revolution and the interests of this paper are juxtaposed. Both are concerned with contemporary efforts to deal with reintegration as well as reformation. The paper will analyze correctional efforts which are concerned with establishing alternatives to incarceration and relating correctional efforts more closely to the community. The analysis will be limited to programs for the accused or adjudicated offender and not devoted to the broad field of prevention. This is an arbitrary choice because sound preventative programs are the best alternative to incarceration. But recruitment to criminal and delinquent ranks will inevitably continue and, for that reason, the concern will be with means for preventing recidivism rather than preventing crime, with the known offender rather than the predelinquent.

The list of alternatives to incarceration is growing and includes pretrial release, probation, programs in which offenders live at home but are required to report daily to a correctional program, small residential group centers, halfway houses and, finally, a variety of advisory councils and committees by which private citizens are enlisted to participate in the reintegration of the offender.

Such programs will be discussed in detail, but it is important first to summarize the implications of the historical review presented above. It includes emergent issues which should be made explicit and considered in any third correctional revolution. Community programs are the current fad and if some of the mistakes of earlier revolutions are to be avoided, we should now benefit from these mistakes.

IMPLICATIONS OF CORRECTIONAL HISTORY

Our historical review has indicated, as Glaser suggests, that man's historical approach to criminals can be conveniently summarized as a succession of three R's: Revenge, Restraint, and Reformation. Revenge was the primary response prior to the first revolution in the 18th and 19th centuries. It was replaced during that revolution by an emphasis upon restraint.

When the second revolution occurred in the late 19th and early 20th centuries, reformation became an important objective. Attention was focused upon the mental and emotional makeup of the offender and efforts were made to alter these as the primary sources of difficulty.

Finally, we may be on the verge of yet another revolution in which a fourth concept will be added to Glaser's list of R's: Reintegration.[7]

Students of corrections, like those of mental health, feel that a singular focus upon reforming the offender is inadequate. Successful rehabilitation is a two-sided coin, including reformation on one side and reintegration on the other. Unless both are used, correctional programs will fail.

There are some who will argue that movement into a third revolution at this time is premature. For example, society itself is still very ambivalent about the offender. It has never really replaced all vestiges of revenge or restraint, simply supplemented them. Thus, while it is unwilling to kill or lock up all offenders permanently, it is also unwilling to give full support to the search for alternatives.

On the other hand, there are those who argue that the treatment philosophy of the second revolution has never really been implemented, that true diagnosis followed by individualized treatment has never been possible in correctional settings. If it were, better results would ensue.

But this argument overlooks one very important program which, if uncorrected, will undoubtedly thwart efforts to make the treatment model work. The problem is the lack of knowledge and comprehensive correctional theory upon which to base clinical treatment models. They are in a primitive state. Consequently, as Gibbons has pointed out, more personnel, smaller caseloads, higher salaries, and better training can never solve the correctional problem until the conceptual deficiency is worked out. Until improvements are made in the theories which underly treatment, changes in correctional structures, by themselves, will be unlikely to produce dramatic reductions in delinquency and criminality.[8] Instead, we will have more refined failure.

In a similar vein, Korn and McKorkle agree that our thinking is very muddy. The bleak facts are, they say, that just as the monstrous punishments of the 18th century failed to curtail crime, so, during the 20th century, we have failed likewise to do so.[9] The reason, they say, is that we have equated humanitarianism with treatment and failed to recognize that the humane care of offenders is not necessarily the same thing as reducing crime, that our practices relative to reducing the problems are sadly lacking.

Perhaps it would be important, therefore, to try to focus more pointedly on just what our difficulties have been. The ones that stand out most clearly are our lack of knowledge and the unsystematic approaches we have taken to corrections. We have been guided, primarily, by what John C. Wright calls "intuitive opportunism," a kind of goal-oriented guessing, a strategy of activity.[10]

Instead of proceeding systematically, to define and then to solve our correctional problems, we have made sweeping changes in correctional programs without adequate theoretical definitions of the causes of crime or the development of logical strategies to deal with them.

The problem, however, is not inherent in some kind of human perversity. Society is far less sophisticated in the development of scientific procedures by which to deal with such human problems as crime than it is in the development of scientific methods to alter the technological elements of culture. The social sciences are just coming into their own. There is not only a profound lack of scientific knowledge about ways to develop better correctional methods, but a general disinclination to approach the search for that knowledge in a disciplined way. That is why a strategy of activity has prevailed.

Correctional units—police, courts, rehabilitative programs—have seldom been considered on any total or comprehensive basis as constituting a single system. Theory has rarely been used. New practices such as casework, psychotherapy, remedial education, group counseling, have all been added piecemeal to existing systems and, instead of replacing older philosophies, have simply supplemented them. As a result, it is difficult to tell whether new practices contribute to, or only confuse, older objectives and practices.

The possibility has not been adequately considered that the impact of new techniques may be overwhelmed by negative influence already existing in correctional systems, or the possibility that their introduction may produce negative effects upon procedures already present. Individual practices, which by themselves might have been helpful, often seem to generate conflict when joined irrationally with other practices. For example, the tendency for custody and treatment people to conflict with each other in correctional institutions often contributes to the cynicism, rather than the reformation, of inmates. Inmates are encouraged to concentrate upon means for exploiting the rift among staff members, rather than working with staff people to resolve common problems. What has been lacking in the past, therefore, is some consideration of correctional problems in organizational teams and the lack of adequate knowledge and theory-building by which to approach solutions in a more systematic way.

If the range of alternatives for solving the correctional problem were narrow, well organized, and familiar, then the best approach might be a strategy of activity. However, the range of possibilities for solving it is not narrow, but is broad, uncertain, and disorganized. Our state of knowledge is primitive. Consequently, a strategy of activity has not only failed to approach correctional problems systematically, but has also failed to provide means either for avoiding repetitive errors or for pinpointing reasons for success should success occur. Whatever progress has been made has been halting and uneven; the organizational patterns which have developed have been the product of a wandering kind of social evolution which is inefficient at best.

Perhaps a more promising strategy would be a strategy of search, one which would commit resources and set target dates which are more consonant with the difficult problems involved. The search for solutions will involve decades or generations and require a philosophy which recognizes that solutions cannot be stated in advance but must be pursued. No one knows with certainty just what the most promising programs will be. That is why careful study should accompany efforts to find better solutions.

A strategy of search would hope to impose the rigors of scientific investigation in a way that is analogous to contemporary efforts to conquer space. The efforts of theoreticians, scientists, and engineers are united in a common effort. It is recognized that solutions will cost millions of dollars and extend over decades. The strategy is such that new programs not only produce a cumulative record, useful in preventing repetitive errors, but also in organizing a plan of attack. Those who are involved have some shared idea of where they are going and where they have been.[11] Corrections could benefit from such a strategy, for it would give corrections people the advantage of being able to learn from failure, to benefit from adversity as well as success, so that their progress might be less random.

If the third revolution in corrections is to be more successful than the revolutions of the past, greater attention will have to be devoted to the theoretical and scientific problems inherent in the revolution. The problem is not just an abstract one for the theoreticians, but is a fundamental issue confronting both State and Federal governments. Rarely do public agencies, particularly on the State level, devote money to developmental research and quality control in the way that private enterprise does in its attempts to develop a more efficient technology. Yet, organizational and human problems are probably more complicated than technological problems and require a greater, not a lesser, expenditure of funds. Both local and national governments lack centralized information systems by which to evaluate their correctional efforts or to accumulate knowledge about such various organizations as police, judicial, and correctional, which contribute to the correctional endeavor. Literally, there is no repository by which one could study recidivism or correctional effectiveness on a national level.

Similarly, very little theoretically based, experimental research is being conducted within public correctional systems. Governmental organizations need not conduct such research as an exclusive endeavor, but they could certainly do more to bring action and research people together. Correctional innovation requires not only interdisciplinary collaboration, but legislative, bureaucratic, and financial legitimation. It is significant that, while private enterprise may devote as much as 50 percent of its budget to research and development, States which are hailed as leaders in the correctional field devote less than 1 percent of their budgets to research. This picture obviously must be altered if correctional programs are to be made more effective.

THE CORRECTIONAL PROCESS

When methods of dealing with offenders are considered, there is a tendency to think primarily of imprisonment and what happens after the establishment of guilt in a court. But this is a very limited view of a vast correctional system in which police, courts, and correctional personnel play key roles. The correctional process actually begins with the first contact between the alleged offender and the police and may not end until it culminates eventually in parole. Between these two poles are a host of decision points and correctional alternatives: whether to arrest, whether to detain in jail, whether to try in court and on what charge, whether to place on probation, to fine or to imprison, where to imprison, for how long and under what conditions, when to parole, when to terminate parole.

These key points in the correctional process have rarely, if ever, been analyzed in total because decisions at each of them are made by specialists in vastly different organizations, including police, district attorneys, various judges and referees, probation officers, jail and institutional personnel, and parole officers. The only people who experience all of them are the offenders who are inserted into the process and go through it. Yet, a better understanding of the total process is necessary if the key points are to be identified at which alternatives to incarceration might be implemented.

For purposes of this analysis, the total correctional process will be divided into three parts:

1. The pre-trial period. The pre-trial period is a port-of-entry into the correctional system. It is a crucial period because there is increasing evidence that the mere insertion of a person into the system, especially through detention or jail while waiting adjudication of guilt or innocence, may increase, rather than lessen the likelihood that he will remain in the system and be a continuing problem to the state. The major concern in this period is whether the person should be incarcerated while awaiting disposition of his case or whether he should be released to one of a number of alternatives.

Important questions are: What are the consequences of detention? What are the virtues or dangers in taking other courses of action? What kinds of modification in the correctional process might be considered relative to pre-trial confinement?

2. Post-trial period. If the offender is found guilty, judges and correctional personnel are confronted with a basic choice of whether to imprison him or to choose among a variety of other alternatives. Ordinarily, probation or a fine may be used for the juvenile, the first offender, and the person who commits a nonserious crime. But what if there is serious concern over the use of fines or probation for some offenders? What other alternatives, other than incarceration, are available? What are the implications of these alternatives? What modifications in the correctional system might be needed if they are to be used?

The choices that are made here are no less important than those made in the pre-trial period. The post-trial period is a second port-of-entry, one which leads either into a supervised, yet continuing participation in ordinary community life, or into a complex time of incarceration in which the process of labeling by society or the process of labeling one's self by the individual is solidified. If the choice is incarceration then, more than ever, the status of "criminal," "lawbreaker," "outsider," is likely to be assigned to the offender. These are not inconsequential definitions but are likely to leave an imprint that will be lifelong. That is why the choice of alternatives during this period is crucial.

3. The Post-incarceration period. Assuming that all correctional decisions have led to incarceration for the offender, there is still the possibility that the period of incarceration might be shortened or supplemented by other alternatives. In addition to traditional parole, there might be other ways to deal with the offender so that his return to the community will be aided or speeded up. What are these alternatives? What is the rationale for using them, their possible strengths and weaknesses? What modification would have to be made in correctional systems to accommodate them? Theoretically, they are of crucial importance because incarceration enhances the problem of reintegration. The adjustment of the individual to his incarceration is not the same as that which is needed as he returns to the community. He is not the same person who left it; his imprisonment doubtless makes him a different person, one who possesses problems which he did not possess before he was imprisoned, especially if his confinement was for an extended period in a maximum security setting. Instead of being passive and obedient, as was expected of him in prison, he is expected on his return to the community to be self-sufficient and responsible; instead of having the smallest of decisions made for him, he now has to make career choices of the greatest magnitude.

That is why considerable attention has been devoted to a search for post-incarceration facilities which will aid in the re-entry problem.

INTERDEPENDENCE OF CORRECTIONAL DECISIONS

A vital point in considering new correctional alternatives is the interdependence of the various choices that might be made. Whatever changes are made in one of the three major parts of the correctional process will influence all other periods. It is impossible to change police, judicial, or correctional practices at one point without organizational consequences at other points. For example, a decision during the pre- or post-trial periods to incarcerate fewer offenders very likely will mean that those who are eventually incarcerated may be the least promising of all offenders and thus make more difficult the task of dealing with them. If this is the case, the impact on both prisons and parole will be noticeable. Parole failure rates will probably increase. If one is not conscious, therefore, of such a possibility he may misinterpret this rise in failure rates and blame it on the decreased efficiency of prison personnel and parole officers, when, in fact, the decreased efficiency is due to decisions made earlier in the process. Thus, the organizational consequences of decision making should always be kept in mind, even though the decisions are made by specialized groups, each of which may not be aware of its impact on others.

FOOTNOTES

1. For a broader development of issues, see Clarence Schrag, "Contemporary Correction: An Analytical Model," Preliminary draft of paper prepared for the President's Commission on Law Enforcement and the Administration of Justice, mimeographed, February, 1966.

2. Daniel Glaser, "The Prospect for Corrections," paper prepared for the Arden House Conference on Manpower Needs in Corrections, mimeographed, 1964.

3. Jackson Toby, "Is Punishment Necessary," *The Journal of Criminal Law, Criminology and Police Science*, 55 (September 1964), pp. 332–337.

4. Glaser, "The Prospect for Corrections," *op. cit.*, pp. 2–3.

5. Clarence Schrag, "Contemporary Correction: An Analytical Model," *op. cit.*, p. 12.

6. For a summary of the subject see Howard S. Becker, *Outsiders*, New York: Free Press of Glencoe, 1963, Chapter I.

7. Glaser, "The Prospect for Corrections," *op. cit.*

8. Don C. Gibbons, *Changing the Lawbreaker*, Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1965, pp. 14–16.

9. Lloyd W. McCorkle and Richard Korn, "Resocialization Within Walls," *Annals of the American Academy of Political Science*, No. 293 (May 1954), pp. 94–95.

10. John C. Wright, "Curiosity and Opportunism," *Trans-Action*, II (January-February 1965) pp. 38–40.

11. John C. Wright, *op. cit.*, pp. 38–39.

PART II PRE-TRIAL PERIOD

One basic question is whether we are needlessly inserting too many people, especially juveniles, into the whole correctional process. The intake rate at present is much higher than the population growth rate, forcing endless expansion of correctional facilities. Even if it were assumed that the total population is inherently more criminal than it used to be, the question would have to be asked. The reason is that the negative consequences of jail, trial, and prison may outweigh the positive consequences. At issue is whether a high intake rate is necessary or whether there are other alternatives—familial, educational, economic—which might be used. There is some rather striking evidence which suggests that the choices made during the pre-trial period are crucial decisions having lasting impact.

The first major decision following arrest is an "intake" decision. Police, prosecution, court, and probation people must decide whether or not to incarcerate a suspect while he awaits trial. The purpose of this particular section is to explore the relation between pre-trial incarceration and what eventually happens to the offender. How many people are incarcerated, in what kinds of facilities, with what consequences, and should alternatives be considered?

EXTENT AND NATURE OF PRE-TRIAL INCARCERATION

It is difficult to estimate the number of people held in jails and other detention facilities while awaiting trial. There are somewhat more than 3,000 counties in this country, of which at least 99 percent have one or more jail-like institutions. Thus it may be that there are between 3,000 and 4,000 county facilities in the United States. There are also some 200,000 cities, towns, and villages, of which anywhere between 7,000 and 15,000 may have jails and lockups of their own. Some of the city and county lockups are used only for temporary detention, but it is estimated that over 90 percent serve both functions. They range in size from village lockups with four or five bunks to city prisons designed to accommodate as many as 1000–3000 inmates.[1]

The result is that somewhere between one and two million persons are held in such places for some period of time each year. The National Council on Crime and Delinquency estimates, furthermore, that over

100,000 of this group are children, with the number increasing each year.[2] Furthermore, it is estimated that from 20 to 50 percent or more of the jail population consists of unconvicted defendants awaiting trial, among whom a large proportion, even as high as 60 percent, may be later released for lack of evidence.[3]

The facilities used for pre-trial incarceration are generally considered to be the poorest of penal facilities. Generally they are under the administration of counties and cities and serve an excessive variety of detention and imprisonment functions for an extremely heterogeneous population. They house convicted offenders, as well as those arrested for felonies and misdemeanors, material witnesses, and neglected or dependent children who are charged with no crime at all.[4]

There is general consensus that juvenile facilities should be separated from adult facilities but present practices are far from encouraging. In many cases, children are detained not only in jails but in old-age homes, homes for the mentally ill, or court houses. Facilities for them are not really separate, often being nothing more than cells which are physically set apart, yet which are also within hearing and sight of adult criminals. The report to the National Conference on Bail and Criminal Justice in 1964 stated that "five States have no separate juvenile detention homes at all, 21 States admit to some jail detention on a regular basis, and most of the rest undoubtedly jail children to some extent in less populous areas." [5]

The cost of incarcerating offenders—feeding, guarding, and caring for them—is incredible under any conditions and pre-trial detention costs are no exception. In a working paper prepared for the National Conference on Bail and Criminal Justice, it was noted that in 1963 Federal detainees spent an estimated 600,000 jail days at a cost to the Federal taxpayer of $2,000,000. In 1962, 58,458 persons spent an average of 30 days each in pre-trial detention in New York City. This constituted a total of 1,775,778 jail days at a cost to the City of $6.25 per day, or over $10,000,000 per year. In Philadelphia the estimated cost was $1,300,000 per year; in the District of Columbia, $500,000. The direct per capita costs of such detention for different communities are estimated to be $2.56 per day in St. Louis, $2.61 in Atlanta, $3.82 in Washington, D. C., $4.25 in Philadelphia, $4.28 in Chicago, $6.25 in New York, and $6.86 in Los Angeles.[6]

The costs of pre-trial detention, of course, include far more than jail expenses. If the accused person is a wage earner his incarceration deprives his family of its means of subsistence. His dependents often become immediately eligible for public assistance if they have no other income. Until welfare departments can conduct an investigation of their cases to determine eligibility, the defendant's family must seek support either from private welfare agencies or friends.

The loss of personal income to the defendant, furthermore, may mean a loss of household necessities due to repossession and the accumulation of debts. It also results in a loss of spending power in the community and concomitant tax revenue. These costs are extremely difficult to estimate but undoubtedly are considerably higher than the actual costs of detention alone.

WHO GETS DETAINED?

The decision as to whether many adults will be detained or not while they are awaiting trial hinges on whether they can afford bail. Those who cannot afford a bondsman usually go to jail. Those who can afford bail may go free. The accumulated evidence suggests that this basic decision is not made on any rational criteria for separating good risks from bad but is based simply on whether the accused can raise a cash premium, sometimes as low as $25 or $50.[7]

For juveniles, the decision hinges on rather loose and ambiguous criteria. In many cases, the rights of juveniles are less well-protected than the rights of adults.[8] The standards for their apprehension and detention are often so vaguely defined as to encompass many nondelinquent children as well as all degrees of misbehaving children. Police must often take neglected or dependent children into custody simply because the children have been deserted or have no place to live. Others run the gamut from murder to the use of profane language or truancy.

CONSEQUENCES OF DETENTION

Perhaps the most important issue is not whether people get detained or not but whether justice is served thereby and the community better protected. If these objectives are realized, then actual facilities and costs may be incidental. What is the actual evidence on the subject?

A preliminary analysis of the effects of pre-trial incarceration indicates that those people who are detained while awaiting trial may suffer a considerable disadvantage when compared to those who are not incarcerated. The disadvantage appears both in convictions and eventual imprisonment. In a Philadelphia study of 946 cases, for example, only 52 percent of the bailed defendants were convicted as contrasted with 82 percent of those who were jailed while awaiting trial. Furthermore, among those who were convicted, only 22 percent of those who had been bailed received prison sentences as compared to 59 percent—almost triple the number—of those who had been detained prior to trial.[9]

The findings of the Manhattan Bail Project were similarly striking.[10] In its study of defendants arraigned in Magistrate's Felony Court in Manhattan between October 16, 1961, and September 1, 1962, 64 percent of the 358 defendants who were continuously held in jail from time of arraignment to adjudication of guilt were sentenced to prison. By contrast, only 17 percent of the 374 who made bail received prison sentences. The difference between the two was 47 percent.[11] Why this startling difference? Was it due to the fact that the more serious offenders were detained without bail and were thus more likely to receive prison sentences, or did the mere fact of detention predispose the person to a less desirable fate?

The evidence supported the latter conclusion. The nature and type of crime charged against offenders did not explain why detained offenders were more likely, first, to be detained and, then, to be convicted and imprisoned. When the type of offense was held constant, the disadvantage of the jailed defendant continued to appear. The following tables, taken from the report to the National Conference on Bail and Criminal Justice by Freed and Wald illustrate the point.[12]

TABLE 1.—*Number of convictions: bail and jail*

	Convictions	
Offense	*Bail*	*Jail*
Assault	23%	59%
Grand Larceny	43%	72%
Robbery	51%	58%
Dangerous Weapons	43%	57%
Narcotics	52%	38%
Sex Crimes	10%	14%
Others	40%	78%

After conviction, the same disparities held true with respect to those who were imprisoned as contrasted with those who were not imprisoned.

TABLE 2.—*Number of prison sentences: bail and jail*

	Prison Sentences	
Offense	*Bail*	*Jail*
Assault	58%	94%
Larceny	48%	93%
Robbery	78%	97%
Dangerous Weapons	70%	91%
Narcotics	59%	100%
All other offenses	56%	88%

The Manhattan Study also showed that among misdemeanants, jail terms were given to 87 percent of those who had been jailed without bail but to only 32 percent of those who had been on bail. And in a study of a woman's house of detention, it was found that 77 percent of those who were detained were eventually convicted, as compared to only 40 percent of those who had been bailed.[13]

Effects of Prior Record. Another possible explanation is that a prior criminal record might be the key variable, explaining why some offenders are detained and others not. The existence of a prior record which predisposes a court to a higher conviction rate may also predispose it to either refusing bail or setting it very high for the former offender.

Thus, while type of offense may not explain differences, perhaps prior record will.

Apparently the assumption has some validity. The Manhattan Study discovered that defendants with prior records, either of arrest or conviction, were much more likely than defendants with no record to be detained awaiting trial and eventually to be imprisoned after trial. But, even so, prior record did not seem to explain the differential effects of pre-trial incarceration, per se. Just as offense was held constant, so was prior record in order to determine its influence.

It is not impossible for former offenders to be released pending trial if they can raise the necessary bail. What happens, therefore, when people with prior records who can raise bail are compared to those with prior records who cannot? Apparently defendants who remain in jail pending trial are still penalized.

Eighty-one percent of the jailed defendants with prior records were sentenced to prison as compared with only 36 percent of the bailed defendants. And, even without a prior record, 59 percent of the defendants who were held in detention received prison sentences as contrasted with only 10 percent of those who were on bail. Thus even when prior record is held constant, it does not seem to explain the differential treatment of free and jailed defendants awaiting trial.[14] But this still does not exhaust the range of possible explanations.

Amount of bail. Another possibility is that differences can be explained in terms of available evidence, seriousness of offense, and the amount of bail that is set. Ordinarily, high bail is associated with a serious crime and the existence of incriminating evidence. Perhaps, therefore, if the amount of bail is considered it will explain differences. The Manhattan investigations found that it did not.

As might be expected they did find that defendants with low bail ($500 or less) are more likely to be freed pending trial than those with high bail (over $500), and less likely to be imprisoned. But when the amount of bail is held constant, that is, when those posting high bail are compared with those who could not post high bail, and those posting low bail are compared with those who could not post low bail, the persons who were unable to post bail suffered by comparison.

Among those for whom low bail was set, 54 percent of the defendants who were detained received prison sentences as contrasted with only 12 percent for those who posted bail. The difference was 42 percent. Among those for whom high bail was set, the figures were parallel. Sixty-eight percent who were detained received prison sentences as contrasted with 25 percent who were not detained, a difference of 43 percent. Thus, no matter whether bail was set low or high, detained persons were more likely to be sentenced to prison than bailed persons, and the degree of difference between them remained strikingly similar.[15] A consistent bias seemed to be operating against the jailed person, whether bail was low or nigh.

Type of counsel. Another possible explanation for the disparity between defendants in jail and those on bail might be the quality of legal counsel. Indigent defendants, especially those who cannot afford bail, are assigned counsel by the courts. If the quality of representation provided by court-assigned attorneys is inferior to that provided by private attorneys, then the greater frequency with which jailed defendants are later imprisoned may be due to their failure to retain private attorneys.

Again, the data do not support this conclusion. For those who had private counsel, jailed individuals were sentenced to prison 60 percent of the time as contrasted with only 16 percent for those who were on bail. And for those who were represented by court-assigned attorneys, jailed defendants went to prison 64 percent of the time as contrasted with 21 percent of the time for defendants on bail. There were virtually no differences between the two, 44 and 43 percent respectively. Thus, as with type of offense, prior record, or the amount of bail, the type of legal counsel does not seem to account for the relationship between detention and eventual imprisonment. The quality of legal counsel did not seem to be the crucial variable.[16]

No matter how one looks at it, one conclusion seems inescapable: the mere fact that some defendants are incarcerated prior to trial while others are not seems to predispose them to a worse fate. The significance of detention stands out in every analysis. The man who is jailed for want of some alternative to incarceration during the pre-trial period is less likely to get equal treatment in court. He seems far more likely to be convicted and sentenced to prison. And the irony is that this outcome does not seem to be rationally based on the accumulation of evidence relative to the offense with which the person is charged or his prior record, but whether he can raise bail or find some other means for release pending trial.

ALTERNATIVES TO PRE-TRIAL INCARCERATION

One cannot state with certainty why jailed defendants, facing apparently similar charges and presumably under the same courtroom circumstances, fare so much worse than those who have been out on bail. But it seems reasonable to assume that courts are swayed by social-psychological factors, many of which have nothing to do with guilt or innocence.

The appearance and demeanor of a man who has spent days or weeks in jail probably is not conducive to a good presentation in court. Confinement, idleness, and isolation are destructive of his self-concept. He is nervous and unsure of himself. He may even be unwashed and unkempt. His appearance under guard further destroys his image and is far different than if he presented himself along with his counsel, neatly dressed and more self-confident. Neither judge nor jury can fail to be influenced by these factors.

The experiences of the pre-trial period are important for other reasons. Wald cites a Supreme Court decision in which the interlude between arraignment and trial was referred to as "perhaps the most critical period of the proceedings . . ." [17] It is the time when indictments are handed down, negotiations are carried out for dismissal or reduction of charges, or motions to sever, to remove, or to change venue are made. It is the time when strategies are planned and pre-sentence reports prepared.

A defendant free on bail or on his own recognizance is available on a 24-hour basis to consult with and help his counsel. He alone may be able to locate and persuade defense witnesses to testify in his behalf. He alone may be a vital source of information in preparing pre-trial motions and negotiations.

When a defendant is on the witness stand, or when a pre-sentence investigation is being conducted by officers of the court, he is at a severe disadvantage if he has lost his job, if his family is on relief, if his personal life has disintegrated personally and socially. Courts, juries, and correctional officers cannot help but be more favorably disposed to a defendant who has remained a functioning economic and social unit in society during the interlude between arraignment and trial. And, by contrast, they have virtually no data by which to be impressed by the jailed defendant. He cannot even prove that he would have presented himself voluntarily in court and stayed out of trouble between arrest and sentence because he was incarcerated the whole time. Three strikes—social, psychological, and economic—are against him. What steps might be taken therefore, to improve the pre-trial period so that it becomes a more equitable and constructive period for all defendants?

IMPROVED FACT-FINDING AS A BASIS FOR ACTION

The first thing that is needed is better information upon which to base the pre-trial decisions of the court relative to release or detention. A judge or magistrate needs verified information about the defendant, his family, employment, residence, finances, character, and background. Heretofore, mechanisms for gathering adequate information have been lacking, especially if the defendant is arraigned promptly after his arrest. But several jurisdictions have found that a simple and speedy procedure can be devised which will produce all the facts that are needed.[18] The Manhattan Bail Project, for example, developed a procedure by which data on four key factors could be gathered within one hour: (1) residential stability; (2) employment history; (3) family contacts; and (4) prior criminal record. Once gathered, each of these factors was weighted in points. If the defendant scored sufficient points and could provide an address at which he could be reached, the staff of the project were prepared to recommend pre-trial release. Different jurisdictions have obtained data by different means.

In the Manhattan Project, law students were used as fact-finders. In St. Louis, the U.S. District Court for the Northern District of California, Oakland, Nassau County, Baltimore, Boston, and New York City, probation officers were used; in the U. S. District Court for the Eastern District of Michigan and Seattle, prosecuting attorneys; in Tulsa, defense counsel; in Chicago and Philadelphia, public defenders; in Los Angeles, court staff investigators; and in a New York City Bar Association proposal, the police were used.

Besides gathering information, additional steps might be taken to assure the defendant's appearance in court. The Vera Foundation, for example, sends a letter to each parolee telling him when and where to appear in court. If he is illiterate, he is telephoned; if he cannot speak or understand English, the letter or card is in his native tongue. The Foundation also notifies others who have agreed to help the defendant get to court. And, the parolee is asked to visit the Vera office in the Court House on the morning of his appearance. If he fails to appear, Vera personnel attempt to locate him. If he has a good excuse for being absent, then they seek to have his freedom reinstated.[19]

RELEASE ON RECOGNIZANCE

Once facts are available which indicate that a defendant might be a good risk for release pending trial, then sensible alternatives to incarceration must be considered. The major traditional alternative, of course, has been bail. But the bail system breaks down when the good risk is financially disabled. To condition his release on money may be to demand the impossible. Increasing attention has been given, therefore, to the release of defendants on their own recognizance, that is, their promise to appear without financial security. The practice is not new but has generally been limited in many State and Federal courts to circumstances in which the court prosecutor personally knows the defendant or knows that he is a "prominent" citizen. In other places, however, it has been extended during the past few years to many defendants who are not well known. At least three promising methods for release on recognizance have been advanced: supervised release, release in the custody of a third party, and daytime release.[20]

1. Supervised release. Release under supervision is conditional upon the accused person's remaining within the court's jurisdiction or at his home, the surrender of his passport, and periodic check-ins with the police, probation office, or the court. Any failure on his part to report is communicated promptly to the court so that efforts can be made to locate him immediately. Paradoxically, this process is much more efficient than the hit-or-miss procedures under which the bondsman operates. Furthermore, the supervising agent may not only be a means of exercising control over the accused but of referring him to appropriate community agencies for assistance during the pre-trial period.

2. Third-party parole. The second method for the use of recognizance has been the release of a defendant into the custody of a willing private third party such as an attorney, employer, landlord, or minister. The practice is probably most widely used in juvenile courts where the offender is released into the custody of his parents.

The third party, as well as the offender, assumes responsibility for the latter's appearance in court. One basic issue in the use of this method, therefore, is whether the third party should be subjected to sanctions in the event of a default on the part of the defendant. If sanctions were imposed, they might defeat the system's objectives, eliminating personal sureties, making people unwilling to be responsible for others. On the other hand, they might also be a more effective means of social control.

A program launched in Tulsa, Oklahoma, in July 1963, uses sanctions. It imposes them on attorneys whose clients default in their custody. In order to qualify as an attorney to whom defendants can be released, the lawyer has to agree that he will not knowingly request the release of a person who has been previously convicted of a felony or, in the last six months, of an offense involving moral turpitude. If the attorney fails to produce his client, his name is removed from the approved list. According to Freed and Wald, nearly 200 defendants a month have been released to members of the Tulsa County Bar Association who were participating. The program has resulted in the waiver of $173,000 in bonds which defendants would have had to pay had the program not been in operation.[21] But the question remains in this and other projects as to whether sanctions on the helping person are needed to make the system work.

3. Daytime release. A third method of release on recognizance would be daytime release for those who cannot be granted fulltime release. Such a system would permit the accused to leave for outside employment during the day and to return to jail at night. It would allow defendants not only to maintain their jobs and social contacts but for them and their families to remain self-sufficient as well.

This practice is now employed in 14 States for convicted offenders but in no States for persons being held on pretrial detention.[22] It was first tried out with convicted offenders in 1913 in Wisconsin, through the passage of the now famous Huber law and has been in use since that time. More recently, North Carolina has set up a system which employs 580 convicts. Officials there estimate that the use of daytime release costs only one-twelfth of the cost of imprisonment.[23] It is important to ask, therefore, why such a system cannot be utilized for defendants awaiting trial, thus not only cutting governmental costs but acting as a first step in the reformation of the offender. The initial disruption of contacts with the community might be avoided for him and serve as the basis upon which to build further correctional efforts, assuming that he is found guilty.

SUMMONS IN LIEU OF ARREST

A second major alternative to pre-trial incarceration suggests that, if recognizance proves to be workable, then the arrest process might be avoided altogether for a significant number of accused persons. The alternative would be to bypass arrest and bail in less serious offenses through the extended use of a summons similar to a traffic citation. The summons would be issued by a judge or police officer to the accused person, directing him to appear in court at a designated time for hearing or trial.

As early as 1931, the Wickersham Commission warned against the indiscriminate use of arrest. Similarly, a report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice in 1963 endorsed the use of summonses for "those cases in which an arrest is not required to protect the proper functioning of the criminal process." [24]

Approximately 28 States and the Federal Courts have statutes which will permit them to issue summonses in lieu of warrants, or police citations in lieu of site arrests. But the use of summonses has been limited largely to traffic offenses and minor offenses such as jay walking or overparking. These limitations are imposed despite the fact that the great majority of all American criminal acts are minor crimes or misdemeanors, offenses which might conceivably be treated similarly. It is important, therefore, to ask whether it is necessary to invoke the arrest process with its consequent reliance on bail, especially in light of the fact that there is comparatively small likelihood that many defendants would flee even if they were submitted to a summons rather than arrest.

Experiments in this area are still relatively new. But what little evidence there is on the use of a summons indicates that it might well be used to substitute many contemporary arrest practices. Furthermore, it would have incredibly important social and economic implications, both for the offender and society which must support the operating costs of processing minor offenders.

REVISED BAIL PROCEDURES

The foregoing discussion of the deficiencies of bail does not mean that the use of money to induce return for trial is totally inappropriate. Revised procedures constitute a third major alternative to present practices:

1. Bail, based on ability to pay. Instead of concentrating primarily on the type of crime committed as a means of setting bail, another alternative is to consider the income of the accused. Freed and Wald point out, for example, that for 35 percent of New York City's working population, the $50 premium required for a $1,000 bond is equal to a full week's wages.

And one-half of the non-white population in New York City has a weekly income of $50 or less.[25] Thus, under these circumstances, the setting of bail for as low as $500 is often the same as denying it altogether, whereas a lower amount would constitute just as reasonable a deterrent effect because, in relative terms, it would be viewed as a considerable amount.

Bail would be set at an amount necessary to deter a defendant from defaulting on his obligation to appear. Such a procedure would require knowledge of what he can afford to pay. But if the defendant is to be bailable at all, the amount required of him should be an amount he can raise.

2. *A Personal cash bond.* Another alternative which has been used in varied forms in Illinois and New York City is to execute a personal bond in the bail amount and then to have the defendant deposit with the clerk of the court a sum equal to 10 percent of that amount.[26] This means that if bail were set at $1,000 the defendant would post $100 cash value with the court and after his case was over would receive $90 back.

Such a procedure would eliminate the bondsman as a middleman, and reduce by a substantial degree the financial loss to the defendant who fulfills his obligation. It would have no less deterrent value than regular bail because, in many cases, it would have to be raised from friends or relatives. Thus, while the deterrent value might remain, the financial cost would be lowered.

EVALUATION OF ALTERNATIVES

There are other alternatives to pre-trial incarceration which might be considered, but those presented above serve to illustrate the variety of possibilities. What should also be presented is the evidence regarding the feasibility of such alternatives. The theory underlying their use is that few defendants with roots in the community are likely to flee, irrespective of their lack of prominence or ability to pay a bondsman. Some defendants, of course, will flee; others—alcoholics, addicts, psychotics—may be constitutionally incapable of responsibility. But what is the evidence on the efforts that have been made to increase the pre-trial release rate? What impact do they have? Do they work? Are they a danger to the community?

The Vera Foundation conducted a careful study of its efforts to secure pre-trial release. It established data-gathering procedures on defendants, set up criteria for recommended release, and then selected a group of defendants which seemed qualified. Half of the group was placed in an experimental unit, with the recommendation to the court that members of this unit be released. The other half, meanwhile, was placed in a control unit and recommendations withheld. The idea was to test what the effects of pre-trial release were under controlled conditions.

The results of the project are striking. In the first year, 59 percent of the release recommendations were followed by the court. By contrast, only 16 percent of the control group were released through regular procedures. This meant that the recommendations nearly quadrupled the rate of releases. But this impact was only a beginning. Further figures showed that, while 60 percent of the defendants who were released pending trial were either acquitted or had their cases dismissed, only 23 percent of the control group were so treated. What is more, of the 40 percent of those in the experimental group who were found guilty, only one out of six was sentenced to prison. By contrast, almost all (96 percent) of those in the control group who were found guilty were sentenced to prison.[27] Yet all indications were that the members of the two groups were essentially comparable, the only difference being pre-trial release. Thus, if the techniques for selecting the experimental and control groups were scientifically sound, these differences are little short of *amazing.* They are an indictment of official procedures.

What was also important was that the default rate of those who were released was extremely small.

> ". . . From October 16, 1961, through April 8, 1964, out of 13,000 total defendants, 3,000 fell into the excluded offense category, 10,000 were interviewed, 4,000 were recommended and 2,195 were paroled. Only 15 of those failed to show up in court, a default rate of less than .7 of one percent. Over the years, Vera's recommendation policy has become increasingly liberal. In the beginning, it urged release for only 28 percent of defendants interviewed; that figure has gradually increased to 65 percent. At the same time, the rate of judicial acceptance of recommendations has risen from 55 percent to 70 percent. Significantly, the District Attorney's office, which originally concurred in only about half of Vera's recommendations, today agrees with almost 80 percent. Since October, 1963, an average of 65 defendants per week have been granted parole on Vera's recommendation."[28]

Similar experimental results have been obtained in Washington, D.C., Des Moines, St. Louis, Chicago, and at various places in the Federal system. For example, in the U.S. District Court for the Eastern District of Michigan, an extensive policy of release on recognizance was inaugurated in the late 1940's. In 1963, 773 defendants were released on personal bond, 80 on bail, and 120 were detained. Forfeitures on personal bonds were extremely low, with the default rate only 1.1 percent as compared to 7.5 percent on bail bonds.[29] Whenever careful studies have been conducted, results are promising. There are a number of qualifications, however, which must be taken into account before wholehearted, objective support can be given to sweeping revisions. Further experimentation is warranted with careful attention being given to results and its implications for action.

ALTERNATIVES FOR JUVENILES

The alternatives above pertain to the pre-trial handling of adults. But what about juveniles? Are there alternative tracks down which they should be routed rather than the legal ones? Actually, the guiding philosophy for the establishment of the juvenile court was that such a court should constitute a less legalistic approach to child problems and, therefore, should have different consequences. It was designed to remove children from the jurisdiction of criminal courts and to act more in the role of a wise parent than as an agent for the dispensation of punitive justice. It was also expected to provide adequately for neglected and dependent as well as delinquent children. But, as statutes have been written and procedures institutionalized, questions have been raised regarding both the adequacy and appropriateness of this court in fulfilling the extremely broad mandate assigned to it.

Paradoxically, the loosely worded legal statutes which govern the care of juveniles probably give wider powers to the court than it would have enjoyed had it been limited strictly to adult or juvenile crime. As a consequence, its mandate and operating procedures are subject to a wide range of interpretations and, perhaps, misinterpretations. There are relatively few limitations placed upon the court in deciding when a child's behavior has passed the limit in which he may be a danger to himself or the community.

Obviously, there are positive as well as negative consequences to this lack of precision. The court is not encumbered by legalistic rituals in its efforts to act in the best interests of the child. But lack of specificity also creates problems. One problem has to do with the difficulty inherent in differentiating among the heterogeneous clientele of the juvenile court, the neglected, dependent, emotionally disturbed, and delinquent children with whom it has to deal.

In most States, all four categories of children must be processed through the same facilities and the results are not always good. Those who work for the court, for example, are aware of the fact that the lack of a good home or some other place in the community for a child to reside may be equally, or even more important, in deciding whether he should be incarcerated than his actual delinquency. Pre-trial alternatives for juveniles, therefore, are needed as badly as they are needed for adults. Care should be taken to reduce the intake of children into what are essentially penal facilities.

The various kinds of youth problems may overlap, tracing their routes to common sources. But should all of these kinds of problems be handled by a court, through legal procedures and by penal facilities? The Second United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in 1960, suggested they should not. It recommended:

(a) that the meaning of the term juvenile delinquency should be restricted as far as possible to violations of the criminal law;

(b) that juveniles should not be prosecuted for minor irregularities or maladjusted behavior, and should not be prosecuted for behavior which, if exhibited by adults, would not be a matter of legal concern.[30] The Congress concluded, therefore, that such problems as neglect, truancy, and incorrigibility should be turned over to schools and other community agencies, and not be handled through legal procedures. Others have made similar recommendations, especially with respect to the neglected and dependent child. Such a child, it is argued, should not be labeled by legal action as a law violator. The child and his parents would be more appropriately helped by various public or private relief agencies whose job it is to provide temporary shelter, aid to dependent children, family counseling, vocational rehabilitation, or employment opportunities. These latter are conventional alternatives which are less likely to stigmatize the persons involved.[31]

Still another consideration has to do with the fact that the juvenile is not protected as extensively by constitutional safeguards as the adult. On one hand, those who view the juvenile court as a kind of social agency dedicated to the welfare of children feel that strict observance of many of the safeguards would prevent the effective operation of the court and deny the judge and his officers the flexibility which they now enjoy. But the counter argument is that the juvenile court, in minimizing constitutional safeguards, inserts juveniles into the correctional process on grounds that could not be substantiated in adult court. Well-meaning judges impose restrictions which would not be tolerated elsewhere.[32]

The reason for raising these issues is not to present an exhaustive consideration of the relative merits of changing juvenile court procedures, but rather to draw attention to the possibility that American society has gone too far in using legal machinery to deal with youth problems. As society has moved from a rural to an urban way of life, it has eliminated many of the informal controls which were formerly exercised by the family and neighborhood, and substituted formal control, such as the juvenile court, instead. But is this the wisest course? Is it not time to re-examine this particular institution and to seek alternatives which might be expected to realize the same objectives, without as many negative consequences? Very few people have given consideration to the possibility that our ever-mounting delinquency rate, in addition to what young people themselves do, is due to a general societal intolerance and legal formalization of procedures for dealing with the young. If the rate of intake into penal organizations is to be slowed down, then conventional alternatives which do not stigmatize the child or his family should be considered.

IMPLICATIONS[33]

The above findings regarding both adults and juveniles say very little about offenders but a great deal about our system of justice. If such findings are at all accurate, they suggest that current legal machinery may be as responsible for some of the negative consequences of pre-trial incarceration and insertion into a long correctional process as the guilt or innocence of offenders.

Besides being concerned that justice is done, therefore, we must also be concerned with the possible negative consequences of legal action and incarceration. As will be seen later, there is growing evidence that, except for those very difficult offenders who must be locked up to protect society, actual incarceration may do more lasting harm than good. The individual is more likely to remain criminal than if he were started down an educational, a medical, or a vocational route rather than a legal one. Care must be taken, at the outset, to avoid inserting people into legal machinery unnecessarily.

Many traditional procedures have an ironical twist. For example, our dependence upon bail has made society's interest in keeping the dangerous man in jail and the nondangerous man out of jail dependent upon the accused's financial resources and the bondsman's motivation rather than upon more objective criteria relative to the offender himself. To be as clear as possible about our problems, therefore, certain revisions should be considered.

1. Pre-trial alternatives to incarceration should be considered as a means of improving our system of justice. The evidence cited above suggests that those who are detained simply because they are not well known or cannot raise bail are severely and unfairly penalized. They are far more likely to be convicted and imprisoned even though the risk of releasing them prior to trial does not seem especially dangerous.

2. More information is needed regarding the subtle psychological and social cues which predispose the detained offender to conviction and the freed defendant to exoneration. Why is it that judges, juries, and those who make pre-sentence recommendations seem more likely to condemn the detained, as contrasted to the bailed defendant? What factors other than the rules of evidence seem to be important in their decision-making?

3. Further studies are needed of the consequences of both pre-trial detention and release in terms of the future behavior of the persons who are treated in these different ways. Up to now, the evidence suggests that our system of justice may be far from equitable. But, even assuming that it could be made more just, we need to know what are the consequences of differential treatment of offenders.

We need to know, for example, whether the higher conviction and imprisonment rate of the detained offender is any more efficacious in deterring him from further crime than pre-trial freedom is for the bailed defendant. Even if the bailed defendant is more likely to be exonerated or, if found guilty, not imprisoned, we need data on the results of this action. Is he any more likely to repeat than the processed offender? Answers to such questions as these would help us to assess the long-, as well as short-range consequences of attempting to improve our system of justice during the pre-trial period.

4. Some consideration should be given to altering juvenile court statutes and procedures. The very first decision to hold the juvenile in detention and to insert him into the legal process, is perhaps the most crucial decision of all, and may lead to life-long consequences. If this problem basically is some kind of behavioral maladjustment, dependency, or illness, then perhaps other alternatives should be chosen rather than the

legal one. There is nothing inherently superior in legal processing, but there is something inherently inferior in legal labeling. While the juvenile may have nothing to gain from pre-trial detention in a penal facility, he may have much to lose from the negative learnings of the experience or the labeling that is attendant to it.

These matters are important because they obviously speak to the profound impact which the official system has upon the offender, quite apart from his own criminality. We need to discover the extent to which official practices themselves are problematic.

FOOTNOTES

1. Paul W. Tappan, *Crime Justice and Correction*, New York: McGraw-Hill Book Co., 1960, p. 658.

2. Daniel J. Freed and Patricia M. Wald, *Bail in the United States: 1964*, A Report to the National Conference on Bail and Criminal Justice, Washington, D.C., May 27–29, 1964.

3. Tappan, *op. cit.*, p. 657; Freed and Wald, *op. cit.*, p. 105.

4. Tappan, *op. cit.*, p. 657.

5. Freed and Wald, *op. cit.*, p. 105.

6. *Ibid.*, pp. 39–43.

7. *Ibid.*

8. *Ibid.* pp. 93–94.

9. Freed and Wald, *op. cit.*, pp. 46–50.

10. Most of the results of this study can be found in Freed and Wald, *op. cit.*; Patricia Wald, "Pre-Trial Detention and Ultimate Freedom. A Statistical Study," and Anne Rankin, "The Effect of Pre-Trial Detention," *New York University Law Review* 39 (June 1964), pp. 631–655. These sources include references to many other investigations and reference should be made to them for an enlarged bibliography.

11. Ann Rankin, *loc. cit.*, p. 643.

12. Freed and Wald, *op. cit.*, p. 47.

13. *Ibid.*, pp. 46–47.

14. Anne Rankin, loc. cit., pp. 647–648.

15. *Ibid.*, pp. 649–650.

16. *Ibid.*, pp. 650–651.

17. Patricia Wald, "Pre-Trial Detention and Ultimate Freedom: A Statistical Study," *New York University Law Review*, 39 (June 1964), pp. 632–633.

18. Freed and Wald, *Bail in the United States: 1964*, *op. cit.*, pp. 57–58.

19. For a more complete summary of this and other steps taken in the Manhattan Project, see Charles E. Ares, Anne Rankin and Herbert Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pre-Trial Parole," *New York University Law Review*, 38 (January, 1963), pp. 67–95. Make reference also to Freed and Wald, *Bail in the United States: 1964*, pp. 59–62.

20. *Ibid.*, pp. 75–77. Freed and Wald cite a number of places in which these methods have been tried and furnish other suporting information regarding them.

21. *Ibid.*, p. 76–77.

22. *Ibid.*, p. 77.

23. *Ibid.*

24. Report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice, Washington, D.C.: United States Department of Justice, 1963, p. 74. Cf. Freed and Wald, *op. cit.*, p. 70.

25. *Ibid.*, p. 78.

26. Cf. Illinois Code of Criminal Procedure, 110–7.; Freed and Wald, *op. cit.*, pp. 78–79.

27. *Ibid.*, p. 63.

28. *Ibid.*, pp. 62–63.

29. *Ibid.*, pp. 69–70.

30. There have been two meetings of the United Nations Congress on the Prevention of Crime in the Treatment of Offenders. For brief discussions of the work of the two Congresses, see Ruth Shonle Cavan and Jordan T. Cavan, "World Trends in Criminology," *Federal Probation*, 19 (Dec., 1955), pp. 42–47; William P. Rogers, "The Geneva Conference on Crime: Its Significance for American Pe-

nology," *Federal Probation*, 19 (Dec., 1955), pp. 39–42; and Charles V. Morris, "World-Wide Concern with Crime," *Federal Probation*, 24 (Dec., 1960), pp 21–30.

31. For a more detailed summary of these issues, see Ruth Shonle Cavan, Juvenile Delinquency, New York: J. B. Lippincott Co., 1962, pp. 267–270.

32. The late Paul W. Tappan was a staunch defender of due process of law in juvenile courts. See his *Juvenile Delinquency*, McGraw-Hill Book Co., 1949, pp. 204–212; also see "Treatment Without Trial," Social Forces, 24 (1946), pp. 3–6–311.

33. Two recent publications, not dealt with in this publication but which should be consulted in future consideration of these issues are Wayne R. LaFane, *Arrest: The Decision to Take a Suspect Into Custody*, Little, Brown and Co., 1965 (the first in a series of several volumes published by the American Bar Foundation in its Survey of the Administration of Criminal Justice), and James T. Carey, Joel Goldfarb and Michael J. Rowe, *The Handling of Juveniles from Offense to Disposition*, Berkeley: University of California, 1965, in seven volumes (curriculum materials addressed to decision-makers in the agencies of juvenile justice).

PART III POST-TRIAL PERIOD

The post-trial period is the second major area of concern in considering alternatives to incarceration. This period is a second port-of-entry whose significance is indicated by the fact that, for the offender, it can result either in a supervised, yet continuing participation in community life, or in an isolated period of incarceration. In the former, the problems of reintegration are minimized; in the latter, they are made vastly more complex.

In choosing among the sentencing alternatives which are open to it, the court is influenced by three kinds of forces. The first is the penal law. The law distinguishes, for example, between crimes according to their seriousness, classifying them into felonies and misdemeanors. It also distinguishes among offenders, the most notable distinction being between juvenile and adults. As one alternative, the law provides that imprisonment for a misdemeanor may be set in a local jail or a workhouse for any period up to a year. Ordinarily, sentences are of a fixed duration, 30, 60, or 90 days, six months, or a year. In some cases, habitual misdemeanants may receive indefinite sentences for periods longer than a year.[1] If the crime is a felony, the law provides for imprisonment in a State prison or reformatory for a period longer than one year. For the most serious felonies, especially crimes punishable by death or life imprisonment, the court must sentence to prison rather than consider any other alternative.

Second, the decision making of the court is influenced by the conflicting pressures which play on it: the police, the probation department and its supporting services, the prosecutor's office, public opinion, and the defendant's counsel and his family. These groups feel differently about the offender. They lack consensus as to what should be done with him and make recommendations to the court which range from those which are extremely lenient to those which are extremely punitive.

Finally, court decision making is limited by the variety of resources to which the court has access. If community alternatives to incarceration are nonexistent, then imprisonment may be the only course. If resources are great, the range of choices may be greatly extended.

SENTENCING ALTERNATIVES

The historical trend has been away from imprisonment and toward other alternatives. The three most common, traditional ones have been the suspended sentence, fines, and the use of probation.

Suspended sentence. The power to suspend sentence preceded the development of probation, but today it is most frequently coupled with probation. Tappan reports that there are statutory provisions for the suspended sentence in at least 18 States but that, in addition, other States employ such a sentence under their common-law powers.[2] This type of sentence occurs in two different forms: the suspension of the imposition of sentence and the suspension of the execution of sentence.

Suspension of the imposition of sentence means that the court withholds decisions on the length of the prison term at the time of conviction so that if it is necessary to revoke the suspended sentence, the period of imprisonment will be fixed at that time. By taking this step, the court is able to consider the subsequent misconduct of the offender if it finds it necessary to revoke the suspended sentence. If, after having been given a second chance, the offender gets into further trouble, it is likely he will receive a more severe penalty upon revocation than he would have received under a commitment in the first place.

In suspending the execution of a sentence, the court fixes a sentence of imprisonment and then suspends execution during the good behavior of the offender. If the court subsequently finds it necessary to revoke the suspension, it must ordinarily impose the term originally fixed.

Fines. Fines constitute a second distinct form of sanctions. The offender may be fined either on the theory that he does not require imprisonment or that he will be deterred through the imposition of a monetary sanction. The alternative to the fine is imprisonment. If the offender cannot or will not pay, he is imprisoned. Fines are also used frequently in association with probation sentences, the payment of the fine constituting one of the conditions of probation.

Restitution. The money received from fines generally goes to the State. However, the court sometimes makes provision for the offender to pay restitution to the victim of his crime. Restitution is not ordinarily provided as a sentence-alternative in penal codes, but not uncommonly it is set as one of the conditions of probation. This is often a sensible course since it confronts the offender with consequences of his act and requires that he make good the loss he has caused. Surprisingly, however, little use has been made of restitution, either as a possible correctional device for the offender or as a means of compensating the victim. Under some circumstances it may be a preferable alternative to incarceration since incarceration removes any chance for reparation by the offender. In the event he fails to comply with the restitution order, his failure ordinarily represents a breach of probation and may become the basis for imprisonment. The use of restitution, in conjunction with probation, would be cheaper to the State, more satisfactory to the victim, and probably more preferable to the offender than incarceration. Certainly, for those who can afford to pay, restitution among other restrictions may be a sensible alternative.

Probation. Probation is the most common alternative to incarceration. It is the disposition available to the courts in virtually every jurisdiction. For juveniles, probation terms tend to be indeterminate, depending upon the decision of the probation officer. For adult misdemeanants, terms are usually from one to three years. For adult felons, the ordinary term is for a period of five years or less. Probation resembles the suspended sentence in the sense that an offender may serve one or more years and then, because of a breach of the conditions of probation, may be imprisoned.

Current probation techniques had their origin in the quasi-probationary measures of an earlier day. The Prisoners' Aid Association of Maryland was established in 1869 and assisted offenders in the Baltimore courts. In 1894, a statute was passed which permitted any court to release first offenders "on probation of good conduct." This law was very similar to one passed in Great Britain for first offenders in 1887. In 1897, Missouri passed legislation which made it possible to suspend the execution of sentence for young and for minor offenders. But all of these statutes were only quasi-probationary in the sense that they made no provision for the supervision of probationers. However, Vermont established such a plan on a county basis in 1898, and Rhode Island established a State-administered system in 1899.[3]

After the turn of the century the spread of probation was accelerated by the juvenile court movement. Thirty-seven States and the District of Columbia had enacted children's court acts by 1910. Forty of them had also introduced probation for juveniles, reflecting the greater concern for the rehabilitative needs of the young. By 1925, probation for juveniles had become universal although it was delayed for adults until 1956. Nevertheless, there is extremely wide variation in both the laws and the ways in which probation is practiced.

This variation introduces many perplexing and contradictory problems. Probation was introduced initially as a humanitarian measure, not as a scientific endeavor to discover more effective rehabilitative techniques. Early proponents wished simply to keep first offenders and minor recidivists from undergoing the corrupting effects of jail.[4] They were volunteers—ministers and others—whose untrained efforts to help guide and moralize with their probationers were considered adequate. Their philosophy was that the offender was a deprived, perhaps uneducated person, who needed help in adjusting to his environment. Their orientation was social in nature.

During and after World War I, however, a marked change occurred in this orientation. As probation work continued to expand there was an ever-increasing demand for professionally educated people, especially trained social workers, to serve as probation officers. And the training of social workers, in turn, was profoundly influenced by the introduction of psychiatric and especially psychoanalytic theory. Freud and his associates were preoccupied with the individual and his emotional makeup, and the training of the professional caseworker reflected this concern.

The offender was seen as a disturbed person in whom emotional healing was necessary, and the professional, probation caseworker, therefore, became associated with his capacity to offer psychiatrically oriented therapy. Thus, both the philosophy and administration of probation became a highly complex admixture of psychotherapeutic theory and older concern with helping the offender to adjust economically and socially to his environment. It remains that way today. The ideology of probation is broad and amorphous, one of generalized beneficence. Ideally, it is supposed to help the offender with all phases of his life, as well as monitoring his capacity for discipline and self-control. Yet in practice the individual officer may be expected to maintain a caseload of from 75 to 200 probationers, to conduct presentence investigations, to maintain extensive paperwork, and perhaps to carry out other functions as well. It is obvious that the ideology of beneficence has not been reconciled with probation in practice. A logical deduction would be, therefore, that probation is destined to fail. But the available evidence does not support the deduction.

First of all, probation is widely used. It is used for the preponderant majority of all juveniles and not insignificantly for adult, first-time felons. Between one-third and two-thirds of the latter receive probation. But despite its wide use there are surprisingly few studies of probation effectiveness and surprisingly few record systems by which such studies could be made. In many jurisdictions, probation is a county function, in others a city or court function, and in others a State function. Thus, there are few central record repositories by which to follow up court dispositions for purposes of evaluating probation effectiveness.

In a summary analysis of 15 probation studies conducted in a variety of jurisdictions, Ralph England found reported success rates to vary between 60 and 90 percent.[5] A survey of probation effectiveness in such States as Massachusetts, California, New York, or in a variety of foreign countries provides similar reported results with the modal success rate at about 75 percent.[6]

These findings are not totally valid because they were not obtained under controlled conditions nor were they supported by data which distinguished among the types of offenders who succeeded or the types of services that were rendered. Nevertheless, the success rates were rather uniform and relatively high and cannot, therefore, be discounted totally. They are the product of a variety of kinds of probation administered in different times and places. Even when interpreted skeptically, therefore, they raise some real issues relative to current policy and practice which can only be answered through further use of the technique accompanied by research and experimentation. The issues are these:

1. What proportion of those now being placed on probation could do just as well on a suspended sentence without any supervision? England suggests that many offenders are probably "self-correcting" individuals who, having once committed a crime, would not be likely to do so again. Still others would be dissuaded from further criminality merely through exposure to the limited surveillance of the suspended sentence.[7]

2. How can one identify those who do not require intensive supervision in order to prevent their future violation of the law, and, more important, how can one identify those who do require intensive supervision? Obviously, current correctional systems cannot provide the answer. Knowledge-building resources are lacking. Yet, if these systems are to be improved, some kind of quality control is needed. Hopefully, the day will come when it will be possible to identify those who are most likely to fail, and, conversely, those who do not require extended surveillance. Probation departments could then concentrate upon that segment of the population for whom probation is most appropriate.

3. Is it not possible that many offenders who are now commonly committed to institutions rather than receiving probation might be dealt with safely and effectively in the community? If the majority of probationers can succeed without much intensive supervision, then perhaps many of those who were incarcerated could do likewise if supervision in the community were intensified. What, therefore, is the picture for incarcerated offenders? How might it be related to the foregoing information on probation and reflect on correctional procedures as a total system?

INCARCERATION AND ITS IMPACT

It has been assumed almost universally that two-thirds of those who are incarcerated eventually commit new crimes and are returned to prison. Yet, Glaser says that this assumption is myth. Evidence does not support it. The information heretofore has been inadequate and incorrectly reported.[8]

First of all, he points out that the only conclusive way to find out how many offenders eventually return to prison is to follow, for a number of years, all those released in a given period. If this is not done, we make the mistake of basing our statistics upon the percentage of men in prison at any given time rather than studying the percentage of men received by the prison in a given period. The two are much different. What happens is that two- and three-time losers tend to accumulate in prison because they get longer sentences and are much less readily paroled than first-timers. Consequently, when the focus is only upon those who are in prison, we get a biased sample, one which overestimates failures and underestimates successes. Thus, when Glaser looked at the number of men being received, he discovered that only about a third had previously been imprisoned, a figure which is only about half as large as has been assumed traditionally.

Glaser reviewed a number of different studies in making his analysis. He found that adults and juveniles being released from diverse institutions in Massachusetts, Minnesota, Wisconsin, California, New York, Washington, and the Federal system, had re-imprisonment rates varying between 15 and 45 percent, with the modal category being about 35 percent. However, it is his position that we could become even more certain about the issue by constructing a national information system to which corrections research people could have access so as to be able to follow more carefully what happens to parolees.

But even without total confirmation, the evidence, when coupled with that presented on probation, confirms the need to think more realistically about corrections as a total system. Again it raises a number of policy issues, suggesting that we could make a much better utilization of our resources. It has been estimated, for example, that the cost of maintaining an offender in an institution is anywhere from three to ten times as great as that of supervising him in the community. Therefore, if a more efficient job could be done of separating hard-core from less dangerous offenders, a more effective allocation of resources might be devised. A heavier concentration of community alternatives might be set up at no extra cost simply by reducing the number of people who must be incarcerated.

In setting up such alternatives, there is no doubt that the hard-core group of offenders against whom society must be protected cannot be ignored. But the need to guard against such people works two ways; that is, they must be identified and kept out of community programs as well as in prison. The only answer, therefore, is research which will provide more discriminating criteria for the classification of offenders into the categories of those who do not require supervision, those who require differing degrees of supervision, and those who require highly concentrated controls. Similarly, research is needed about the programmatic counterparts for types of offenders. Obviously generic casework as it is practiced in probation is not the total answer. Other programmatic designs are needed of which casework is only one. A coherent system of alternatives should be sought, ranging from nonsupervisory measures such as fines and the suspended sentence, through increasingly structured community programs, to total incarceration.

Fortunately, we are not without some experience in setting up such a system of alternatives. A rather wide variety of programs has been tried and the following section is devoted to their brief categorization and description.

OTHER ALTERNATIVES TO INCARCERATION

It is difficult to categorize, along one dimension, all of the various programs that have been tried. They have involved both juveniles and adults, misdemeanants and felons, one-time and persistent offenders.

Therefore, the list which follows is not meant to be exhaustive nor completely descriptive of all programs, but simply to illustrate the kinds of programs that might be implemented. Wherever possible, evidence as to the efficacy of the various programs will be presented. The major objective of the analysis is to distill basic issues—obstacles to innovation, strengths and weaknesses, research issues—as a means of establishing a baseline for future developments.

FINES AND RESTITUTION BY INSTALLMENT

One very elemental device for avoiding imprisonment for the misdemeanant offender, or complex probationary procedures for the juvenile, is to provide for the payment of fines or restitution by installment. In the case of the adult, there is some evidence that over two-thirds of all offenders committed to jail for short terms were incarcerated as a result of their inability to pay fines. The use of jails for such commitment, especially for brief periods of time, could be greatly reduced through the use of this alternative.

There is nothing new about the approach. Tappan cites a study in which imprisonment in England for default of payments of fines dropped from 79,583 cases in 1913 to 15,261 in 1923 as the result of legislation providing for time payment. He notes also that additional legislation in 1935, requiring the courts to inquire into the offender's ability to pay, reduced such commitments still further to 2,646 in 1946.[9] He also cites an American study which showed that in those States where fines are based on the ability to pay and where installment paying is allowed, fewer than 5 percent of those who would otherwise have been incarcerated actually had to be committed.[10]

Juvenile judges have probably been more concerned with using fines and restitution as a teaching device than adult judges. They have felt that having a youthful offender compensate the victim or the State would be rehabilitative. If he has committed an act of vandalism, the judge may assign him to repair the damage. If he has committed a traffic violation for which fine is levied he may be assigned to work for a governmental jurisdiction. Judges feel these activities have served successfully as a deterrent to the juveniles in question.

The important consideration in setting up such alternatives concerns the necessity to write statutes or find administrative mechanisms by which to carry them out. The problems in setting up such mechanisms should not be minimized. Despite the relative simplicity of this alternative, the potential savings, both to the offender and to the State, are not inconsequential. For example, the tremendous number of offenders in England who were not required to serve sentences in jail undoubtedly represented a tremendous saving to the state. The cost of housing, feeding, and clothing prisoners was eliminated, to say nothing of the probable social and economic savings to the offenders themselves and their families.

WORK FURLOUGH

The work furlough is more complex than fines by installment in the sense that the offender does lose some liberty. However, the concept of maintaining his integration in the community remains prominent. Under this alternative, the offender is confined in jail only at night or on weekends, but is permitted to pursue his normal life the remainder of the time. In this way, while some punishment is being levied, the punishment does not totally disrupt his domestic and economic relationships.

The concept of the work furlough, like fines by installment, is not new. It dates back first to the Huber law which was enacted in Wisconsin in 1913. This law sought to accomplish two objectives: (1) to provide for reformation and rehabilitation of the prisoner, and (2) to provide means of financial support, other than public relief, for the prisoner's dependents.[11] However, the work furlough was not used extensively until World War II when workers were sorely needed. Today at least 24 States formally provide for some form of work release, and in addition to this judges and sheriffs informally make use of it in handling various cases. Work-release laws ordinarily apply only to misdemeanants, but some States have extended their laws to include felons.[12]

In Wisconsin, the earnings of the employed prisoner are kept in a trust fund and dispersed in accordance with the statutes of the Huber law. They provide for: the board of the prisoner in the jail; necessary travel expenses; support of the prisoner's dependents, if any; payments of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment; and the balance of payment due the prisoner upon his discharge.[13]

Again the effects of the work furlough have not been assessed under strict experimental conditions. However, in Wisconsin where it has been most widely practiced, there seems to be considerable satisfaction with it. In 1960, for example, about one-third of almost 10,000 persons who were sentenced to county jails were sentenced under the Huber law. Of the 3,215 prisoners involved, 2,281 were actually employed. The remainder remained unemployed primarily because jobs were unavailable. Over $600,000 was earned that year by Huber-law prisoners. Over a third of that amount went to support the dependents of prisoners, one-quarter to pay for his board and room, one-fifth to the prisoner upon release, and the rest to pay for debts and personal exenses.[14]

One important point to be remembered about both the use of fines by installment and work-furlough programs is that they are relatively simple, mechanistic approaches of dealing with offenders. Those who write about these approaches often speak of their rehabilitative impact, but one can scarcely expect significant personal change to be the most important consequence of them.

This is not to depreciate these programs, but to note simply that they are not designed as complex change strategies such as those which will be discussed below. Instead, the most significant thing about them is their alteration of correctional organizations and policies. When some offenders are provided with a mechanism by which to exercise decision making and responsibility, the consequences are not always bad. Many offenders are capable of utilizing an installment plan or work furlough without complex personal change. They can already meet, at least on a minimal level, their conventional responsibilities. They do not need more complex devices. The available evidence, therefore, by no means suggests that simple changes such as these are inferior to more complex strategies. They are only inferior for certain types of offenders. Everything possible should be done, therefore, to identify these types and their numbers so as to maximize the attention that must be paid to them and to minimize the attention devoted to offenders who can benefit from simple strategies. Only when that is done will society be better protected and justice more effectively rendered.

NONRESIDENTIAL COMMUNITY PROGRAMS

A relatively recent development has been the creation of intensive, nonresidential community programs. They have been used primarily for juvenile offenders who have not succeeded on regular probation and are candidates for incarceration. These programs, in the main, are considerably more concentrated in design than regular probation or work-furlough programs. They involve definite strategies which are designed to change the offender and facilitate his reintegration into the community.

PROVO EXPERIMENT AND ESSEXFIELDS

The most pronounced innovations have divided themselves into two general types. The first type is built more or less around sociological tradition and is illustrated by such programs as the Provo Experiment[15] or Essexfields.[16] These two programs are designed for older adolescents, ages 15–18 years. They are by no means exact duplicates but, in the main, they are based on two sets of postulates, one having to do with causation, the other having to do with strategies for intervention. These postulates would not necessarily be applicable to very young children or older adults.

The Provo Experiment, for example, postulated: (1) that most older delinquents who are eventually processed through the courts are from low-income homes; (2) that the lives of these offenders have been characterized by failure in such conventional institutions as the school or world of work; and (3) that membership in a delinquent group develops as an alternative means for acquiring many of the social, emotional, and economic goals which are acquired by other young people through conventional means. The prevailing theme is that the greater part of delinquent behavior consists of patterns which are socially proscribed and which have evolved out of experiences in a working class environment, in peer groups, and in the community.

The home may have had an early negative influence, but rather than attempting to reconstruct that relationship, the implication is that steps must be taken to alter the identification of the offender with the anti-social group and behavior through which he has now found compensating satisfactions. The focus is upon the here-and-now. Postulates for intervention, therefore, suggested that a program should try: (1) to make the delinquent group the target of change—that is, attempt to change shared standards, points of view, rewards and punishments; (2) to give the delinquent group a stake in what happens to its members by permitting participation with staff in solving problems, exerting controls, and making basic decisions; and (3) to open up conventional opportunities to delinquents in the school, the world of work, and other conventional institutions. Reformation on the part of offenders is only one side of the coin. Certain aspects of the community will have to be changed if the offenders are to be successfully reintegrated.

In implementing these assumptions, the Provo and Essexfields programs were generally the same. Program activities included gainful employment in the community, school, and daily group meetings built around the technique of Guided Group Interaction.[17] This technique varies considerably from traditional group psychotherapy in the sense that all group members, not just staff, are responsible for defining problems, dealing with difficult questions, and finding solutions. An effort is made to provide means by which offenders can assume more responsibility for their lives and to reward them for help that they are able to give others. The offender is sponsored in an active, reformation role rather than in a passive one in which he is acted upon by others.

The fact that these two programs were located in the community meant that problems with which the groups were struggling were those that confront them in their daily lives: families, friends, school, work, leisure time. That is one very important strength of a community over an institutional program. The artificiality of institutional life is avoided and concentration can be placed upon the problems of successful community reintegration rather than upon adjustment to institutional norms.

The available evidence is that the two programs had a generally positive effect. The Provo Experiment was one of the first to set up an experimental design by which to examine outcome. Offenders who were assigned to the experimental program were compared to two control groups, one of which was left in the community on probation and a second which was incarcerated in a training school. The initial design was such that all three groups could be drawn randomly from a common population of persistent offenders residing in the same county.

As a background for comparing the three groups, a study of court records was made prior to the introduction of the experiment. It revealed that only about 50 to 55 percent of the kinds of persistent offenders who were assigned to the program were succeeding on probation. It will be recalled from the success and failure rates presented earlier that this was a lower success rate than the case for probation in general. It explains why the more intensive experiment was started.

The experiment improved the success rate. Six months after release, 73 percent of those who were initially assigned and 84 percent of those who eventually completed the program had no record of arrest. None of the remainder had been arrested more than once and none had been incarcerated. But these were probably not the most interesting findings.

During the same period the success rate for the control group under regular probation had gone up almost as precipitously. From its original success rate of 55 percent, the probation department developed a success rate of 73 percent for all those who were initially assigned to probation and 77 percent for those who completed it.

Apparently the introduction of the experiment, and the research which accompanied it, had some influence on the operation of court and probation personnel. Their work, perhaps as a result of a sense of competition with the experiment, resulted in a higher success rate. At any rate, there was a halo effect, not uncommon in social experiments, which affected everyone concerned and not just the offenders who were subjected to the experimental stimulus. Such findings, of course, indicate the importance of replicating the experiment elsewhere.

On the other hand, the second control group, made up of incarcerated offenders, was not nearly as successful as the experimental and control groups which were left in the community. Six months after release, only 42 percent of the incarcerated group had not been arrested, and half of the 58 percent who had been arrested, had been arrested two or more times. This finding, however, must be tempered by the fact that the original experimental design had to be altered during the experiment because the court was not assigning enough boys to the institutional control group. Consequently, it became necessary to complete this control group with boys randomly selected from other jurisdictions. This change may have biased results considerably.

Nevertheless, the findings are strong enough to raise important issues. Both community programs not only resulted in significantly less recidivism but they cost only a fraction of the money. The experimental program was anywhere from two to four times cheaper than institutions in California, Utah, Colorado, and elsewhere. Probation, of course, was much cheaper still.[18]

Essexfields has not made a detailed presentation of its success and failure rates. However, it has consistently graduated approximately 75 percent of all of the offenders assigned to it. This is very similar to the Provo study which graduated 73 percent. It may be, therefore, that the two kinds of programs are operating at approximately the same level.[19]

Their presence in the community makes a graduated range of correctional controls available so that courts do not have to make an either/or choice between the limited controls of probation versus the total controls of a training school, but can individualize sentencing procedures more successfully.

COMMUNITY TREATMENT PROJECT

Another type of community project which has probably drawn more attention in recent years than any other is the Community Treatment Program sponsored by the California Youth Authority. This project is exciting, not only because it represents an alternative to incarceration for Youth Authority wards, but because it is founded on a classic, clinical design prescribing specific types of treatment for specific types of offenders. While its orientation is generally psychological in nature, it departs from traditional personality classifications and defines offenders according to personal maturity levels.[20]

The maturity typology includes nine subtypes of delinquents classified according to their interpersonal maturity level and the mode of behavior which typifies their interaction with the world.[21] The nine delinquent subtypes fall into three larger groupings, including Low, Middle, and High Maturity delinquents. Each of the larger groupings, and to some extent the subtypes within it, calls for distinctly different approaches to treatment and control. Treatment methods which are regarded as appropriate for an individual in any one of the subtypes would be considered highly inappropriate for an individual in another subtype.

Each experimental delinquent is diagnosed prior to admission to the project and, on the basis of the diagnosis, is assigned to a parole agent who is thought to be skilled in working with that type of delinquent. Thus, types of delinquents are matched with types of agents. Each agent carries an average caseload of eight to ten wards. Contacts may vary from two to five weekly and may involve full-day as well as part-time programming for youth. A given case, for example, may require—singly or in combination—surveillance and firm discipline, individual counseling, psychotherapy, family group therapy, guided group interaction, occasional confinement, or foster home placement.

The effort to make treatment consistent with design has extended to the development of specially designed group homes for those who need them. For the type of client who makes his way by manipulating others, a specific home will be set up with parents who are trained to frustrate such behavior by exerting firm controls. For the child who needs a considerable amount of assurance and freedom, placement would be in another home designed to operate warmly and permissively. Such homes will operate only for special cases since most wards will probably continue to live at home.

In summary, then, the design of this program is extremely complex.

It calls for the differential diagnosis of offenders into subtypes, the selection and training of agents to work with these subtypes, the definition of a treatment plan for each of the subtypes, the development of a host of program resources to be used singly or in combination for the different subtypes, and perhaps even the development of specialized homes in which certain wards would be housed.

This project is utilizing experimental controls. All subjects come from a common pool of eligibles who have been assigned by the courts to the Youth Authority for what traditionally has been an institutional program. However, the design now permits random assignment of experimental subjects to the Community Treatment Project and control subjects to a traditional institutional program. Comparative effectiveness of the two programs is being assessed in a variety of ways, by parole performance and by attitudinal and behavioral changes.

The latest reported figures show that 29 percent of the experimentals, as contrasted to 48 percent of the controls, have been parole failures within 15 months on parole. Failure means that their paroles have been revoked and they have been recommitted. This difference in favor of the community program is an important one and, in statistical terms, is highly significant.

Experimental subjects also showed a significantly higher level of social and personal adjustment in terms of psychological test scores than did the control subjects. For example, the experimental group was significantly ahead of controls on 10 of 18 individual scales of the California Psychological Inventory, while control subjects were ahead on 2 of the 18.

One debatable difference between experimentals and controls was observed with respect to parole suspensions. Suspensions refer to temporary, rather than permanent, revocations of parole and usually result in a short period of detention. The experimental group had an average of 2.6 suspensions per ward, while the control group had an average of only 1.4 suspensions. Furthermore, 61 percent of all experimental group suspensions were the direct result of arrest action taken by experimental staff, as contrasted to only 25 percent of the suspensions for the control group.

These differing rates of suspension are thought to be due to differences in the philosophy and procedures of experimental and control staffs. Experimental agents may be more inclined than control agents to use temporary detention as a part of their treatment and control strategies.

However, there are pro and con arguments relative to the use of suspension in this way. If temporary suspensions result in fewer long-term revocations, as is hoped in this case, and are a part of a long-term treatment scheme, they would seem to be justifiable on therapeutic grounds. But the question is whether such suspensions violate constitutional rights, and should be permitted only after proof of new violations, not on the basis of clinical judgment.

The problem is complex. Suspensions have their paradoxical qualities. For example, one that becomes clear in intensive programs, such as the Community Treatment Program, Provo, and Essexfields, is that staff members are a party to much greater information about their wards than they would be if they operated with traditional, large case loads. Therefore, in the event they find that wards are doing things that will lead eventually to official detection, staff must decide whether to suspend the ward or to let him continue without control. The problem is that judgment must be based on information or behavioral characteristics which ordinarily do not come to the attention of the regular agent or the police. The real problem hinges on whether the ward *or community* is in danger. If either is, then failure to control him through brief periods of detention may mean that, eventually, he will be incarcerated permanently. If he is not in danger or his behavior is not supportable in court as illegal, then perhaps he should not be submitted to temporary losses of freedom. But since the decision to suspend or revoke parole obviously involves some subjectivity on someone's part, and since it seems almost certain that intensive community programs will be used increasingly in the future, more attention will have to be paid to both the clinical and legal issues that are involved.

In summary, the Community Treatment Project provides an interesting and valuable contrast to such programs as those at Provo and Essexfields in terms of both theory and design. Yet all three seem to indicate two very important things: (1) that serious delinquents can be treated in the community without undue danger to the community: and (2) that apparently the majority of them can successfully be changed without having to subject either them or the State to the costly and negative consequences of incarceration.

On the other hand, many questions remain unanswered, one of which has to do with the complexity of community programs. Are the relatively similar success rates of these two vastly different types of programs due to the programs themselves or to the fact that juveniles in both simply escaped the negative influences of incarceration? Some of both is probably involved. But if programs per se are to be made more efficient, answers must be sought. One very encouraging development is the fact that the California Youth Authority, in an effort to assess the relative merits of these two approaches, has recently set up a study in which Provo-type and Community Treatment-type programs will be implemented and results compared. The problem, of course, is in achieving accurate replication. Both programs require a trained staff whose philosophy and interest will permit them to operate according to theoretical design. The mere statement on paper does not guarantee that the programs can be implemented.

Another important question is whether programs such as these must be restricted to juveniles. Is it not possible that some modification of them could be used with adults? Must the alternatives for adults always be extreme, either the almost total freedom of probation or the total loss of freedom through incarceration? Except for an isolated residential program here and there, intensive community programs for adults, as will be seen below, have not been tried. The above evidence seems to imply that they should be tried.

RESIDENTIAL GROUP CENTERS

The final type of alternative that is used in place of total incarceration is the residential group center. Such centers are now restricted mostly to juveniles and range from boarding-type homes in the community to the more treatment-oriented centers such as Highfields or the Kentucky Camp Programs. The latter are unlike training schools, in that they are small and in open settings, and are removed from the community.

Such States as Washington and Michigan operate group centers which serve as a home base for delinquents. These homes are probably the most family-like of any residential centers. They do not operate elaborate programs but draw upon the community for education, training, jobs, or recreation. Some are staffed by employees of the State correctional agency and serve in place of training school commitments for some delinquents, or as a halfway parole facility for delinquents who are leaving an institution. Such homes, on occasion, are also operated by private agencies and are especially useful as places to which juveniles, whose problems may be as much dependency and neglect as law violation, can be assigned.

HIGHFIELDS-TYPE CENTERS

The prototype for more treatment-oriented but small residential group centers is the Highfields program which was begun in 1950. Highfields limits its population to 20 boys, age 16 and 17, who are assigned directly from the juvenile court. Boys with former commitments to correctional schools are not accepted. The program is not designed for deeply disturbed nor mentally deficient youths.[22]

Highfields was established on the premise that, with intensive methods, rehabilitation could be accomplished in three or four months. The daily routine is like that described earlier for the Provo and Essexfields programs. The major difference, of course, is that the boys live in residence rather than in their own homes.

During the day, the boys work at the New Jersey Neuro-Psychiatric Institute. In the evening, the population is broken into two groups of 10 boys, each of which then meets for its daily group meeting. On Saturday, the boys clean up the residence. Saturday afternoon is free. Sunday they may attend church at nearby Hopewell and receive visitors. Formal rules are few. Control instead is exercised informally through the development of a culture which is presumably peer-centered, therapeutic, and anti-delinquent.

Not all boys are able to adjust to the Center. Some run away, others do not fit into the program. A few commit delinquencies of a serious nature. The Highfields response, therefore, is that staff members and other boys should be free to reject certain of these people (because such rejection is necessary as a means of reinforcing an anti-delinquent culture) and working with those who are willing to change. Consequently, boys who cannot adjust are returned to court for some other disposition.

In order to test the effectiveness of the program, Highfields graduates were compared to a group of boys who had been committed to the New Jersey State Reformatory for Males at Annandale. A lower percentage of Highfields than of Annandale boys recidivated. However, the results of the comparison have been debated because both groups were not selected under experimental conditions such as they were in the Community Treatment Program in California. Without such selection, there is some doubt as to whether the groups are comparable. For example, the Annandale boys tended to be a little older, perhaps more experienced in delinquency, and from poorer social backgrounds than the Highfields boys. It is difficult to say, therefore, whether success and failure differences were due to the treatment approaches or the differences in the youth populations.

It should not be forgotten, however, that the Highfields method was at least as successful as the Reformatory and that it accomplished its results in a much shorter period of time and at much less expense. These factors alone, quite apart from more subtle personal changes which might have occurred, seem justification enough for further work with such methods.

The Highfields model has been widely adopted in other places in New Jersey, New York, and Kentucky.[23] One of the most significant adoptions has been the creation of the Turrell Residential Group Center for Girls at Allaire, New Jersey.[24] This Center utilizes the same general approach as Highfields and apparently has been reasonably satisfactory. It has not been studied, however, under experimental conditions. Therefore, empirical results cannot be presented either regarding recidivism or alterations that may have to be made in the use of Highfields techniques with girls.

THE SILVERLAKE EXPERIMENT

Another small residential group center called the Silverlake Experiment is being tried in Los Angeles. This experiment was begun in 1964 and is an alternative to institutionalization for those who attend.[25]

The experiment attempts to combine the contributions of theory, action, and research. As a result, it is built upon four main building blocks: (1) a series of theoretical assumptions about persistent offenders; (2) a series of assumptions as to what should be done to change them; (3) the development of a basic strategy for producing that change; and (4) a systematic plan for testing this approach.

In one way, the program is very much like the Provo, Highfields, and Essexfields programs. It attempts to involve delinquents actively in looking at problems, exerting controls and making decisions. It attempts to create an antidelinquent culture in which offenders, as well as staff, play important roles. For that reason the staff is small, including only two professionals, a part-time cook, and a part-time work supervisor.

One marked difference between this and the foregoing programs is its concentration upon school rather than work. Attendance at school is mandatory for boys, with volunteer tutors assisting in the evening. As might have been anticipated, many problems have been encountered and it remains to be seen whether this facet of the experiment can succeed. Virtually every boy was in serious difficulty with school when he came and it remains a formidable task to reintegrate him in the school.

In addition to action, considerable attention has been paid in the experiment to the problems of research. An attempt has been made to establish a more functional relation between the two. Both are joined by a common administrative and theoretical structure and offenders assigned to the program are a party to the joint operation. The role of research in understanding and improving correctional programs is explained to them and they realize that research information is privileged.

The research endeavor is concentrating on four areas. The first might be called input research and is concerned with the characteristics of offenders and whether the assumptions made about them are confirmed by empirical findings. If basic assumptions made about offenders have no basis in fact, then theoretically at least the treatment program might be relatively ineffective. Revisions would have to be made.

The second might be called process research that is concerned with program operation itself and is a form of quality control. It determines whether actual operation conforms to program design and what the consequences for staff and offenders are.

The third is outcome research concerned, in this case, with determining the relative effectiveness of the experimental program as contrasted to that of an institutional program with which it is being compared. Experimental and control groups have been randomly chosen from a common pool of eligibles as a means of making the comparison.

At this writing, results are inconclusive because the experiment is only about half completed. However, some items of interest have emerged. First, in terms of process research, an analysis of "critical incidents" reveals that the majority of delinquent and other problem-acts at the experiment are committed by a minority of offenders. This small correctional residence is apparently like society in microcosm. Most of those who are present are generally conformist with only a small proportion continuing to be persistently deviant.

Second, unauthorized absences from the residence and the school have been a problem but preliminary input and process research suggest that it may eventually be possible to do a more effective job of identifying the offenders and situations in advance which are most likely to contribute to absences. At present, for example, selection criteria are broad, excluding only addicts, sex, and violent offenders. It may be that certain kinds of offenders are less likely to benefit from a program of this type and it would be important to be able to identify them.

Finally, in terms of success and failure rates, the experimental and control groups are doing about the same. Approximately three-quarters of both groups are succeeding after completion of their programs. But while boys in the experimental residence are remaining only about six and one-half months, those in the control group are staying in an institution about 15 and one-half months, a period over twice as long and much more costly.

These findings are highly tentative, however, because numbers remain small. Furthermore, the success rates of both groups are sullied by the fact that both programs, being open and without guards, are struggling with a runaway problem. If runaways are taken into account, some of whom leave on the first or second day, then overall success rates drop sharply. Such findings highlight the importance of intensive research because until offender and organizational problems can be straightened out, until types of offenders can be related to types of programs, problems of this kind will persist. It is one thing to retain tight and effective control in a closed setting but quite another to hold on to offenders because they see some benefit in staying.

ADULT RESIDENTIAL CENTERS

SYNANON

One of the best known and most significant alternatives to incarceration is Synanon, the social movement *for* drug addicts run *by* drug addicts.[26] Synanon is most notable because of its radical departure from correctional tradition. It believes that one of its great strengths lies in the fact that it is not an official part of any governmental agency, that it is not encumbered with all of the restrictions, all of the organizational impedimenta with which public agencies must deal. Yet, Synanon, despite its uniqueness, is every bit as complicated organizationally as many public correctional facilities. It is just that its organization is *different*.

Synanon operates on the symbolic assumption that the incoming addict is a fetus who must become attached to its therapeutic environs. Emotionally, he is viewed as a baby who must be totally restricted, protected, and nurtured. Whether or not "emotional infancy" is actually the cause of his addiction is not the point. The point is that the assumption is doctrine. The system is structured around the tenet that "emotional infancy" is *the* cause. Consequently, each new member must accept this doctrine and go through the trauma of rebirth.

The process of rebirth is not an easy one. The infant is subjected to "attack therapy," a kind of treatment designed to force acceptance of the idea that his life to this point has been a ludicrous futile endeavor. Old habits, patterns, and rationalizations must be eliminated and replaced with healthy ones. Only Synanon it is believed can accomplish this. Unless the addict can accept this fact and acknowledge his complete dependence upon it, he cannot expect to remain free from drugs.

The whole system seems oriented more completely than other systems to the single manifest purpose of dealing with addiction. Relatively less attention has to be devoted to the latent functions with which prisons, hospitals, and other systems must be concerned, that is, providing for the career development of professionals who are the nonaddict members of other systems, working through a series of competing dogmas as to what the problem is, and meeting a whole series of bureaucratic expectations.

Whether it can avoid institutionalization is an important question. Much is now made of the point that upward mobility is possible for all members of the system. New members start with such menial jobs as washing dishes and scrubbing floors; as they improve, they are given the opportunity to achieve more responsibility and higher status. Even so, there is a contradiction inherent in the belief that unlimited upward mobility can occur in a social movement which relies heavily upon the power and genius of those already at the top. It is a gross oversimplification to conceive of Synanon as being a democratic association of peers.

This is not to suggest that Synanon should be other than an authoritarian system. It is simply to point out the existence of contradictory themes which run through the program: the first strongly suggesting that addicts must become dependent upon, and uncompromising in their allegiance to Synanon, and the second suggesting that the goal of Synanon is independence and self-reliance for its members. Are both possible in a general sense? Does Synanon really expect to prepare addicts to move out of the system and into the world, or does it aspire to keep them closely tied to it the rest of their lives?

At the present time, Synanon is organized to provide for familial, economic, intellectual, emotional, and recreational needs. Perhaps the explanation is that "independence" and "self-sufficiency" are relative to the Synanon system; the addict will be able to exercise them in relatively greater fashion so long as he remains firmly rooted within the highly structured Synanon system itself. This could be a psychological and social necessity for former addicts.

Relatively little data have been provided on the success and failure rates of Synanon, so one has no way of comparing its effectiveness with the notably poor results achieved in governmentally sponsored institutions. Few people with any knowledge of the problem would expect Synanon residents to be completely free from crime and addiction, but what would be important for the serious student of the problem would be some knowledge of the extent of Synanon's problems.

To members of the Synanon system, however, such matters may be inconsequential since the living presence of former addicts, free from dope, in Synanon programs in Santa Monica, San Francisco, San Diego, Westport, and Reno is *evidence enough* of Synanon's success. The members are not especially concerned with the kinds of research and reporting currently of concern to others. While this stand may be functional for those at Synanon, it is dysfunctional for others who hope to learn from it. It might be hoped, therefore, that some future analyses could be conducted which would provide a more objective appraisal of Synanon's operation and impact.

PUBLIC ADULT CENTERS

Attempts to create residential alternatives for adults have been few. In North Carolina, the sleep-in, work-out principles of the Huber plan are being applied to prison inmates. After serving 15 percent of their time in prison, they become eligible for placement in camps which are located adjacent to population centers. From these camps, they go each day to regular employment in the county. Their earnings compensate for part of their living expenses, and either support their families or are held in trust until the day of their parole.

A more recent innovation has been the development of "Crofton House," an experimental project for adult offenders in San Diego County.[27] Crofton House is a large, leased house in a middle-class residential section of San Diego. Like the program in North Carolina, the residents work in the community. Treatment is administered largely in terms of guided-group interaction. The only live-in staff at Crofton are house parents. The project is attempting to involve residents in controlling their own behavior, in making decisions, and in solving problems.

An experimental design is being used to evaluate the project. Inmates are selected from the San Diego Honor Camps system who are not thought to constitute a threat to the community. Experimental and control groups are randomly selected. However, it is too early to assess results, but these two groups will be compared relative to their eventual performance after release.

Available data indicate that the work program is a success only in relative terms. The average number of residents of Crofton House is approximately 20 men. During a one-year period, however, the average number of employed residents was only seven full-time and three part-time workers. Those employed earned a total of $21,762. The average income per month during the one-year period was just over $2,000. This is by no means a large income when the number of men involved are taken into account, but it is better than if the men were totally unproductive.

Perhaps what is more important is that no unfavorable incidents have come to the attention of the program thus far. The community apparently has not been endangered, even though some of the offenders who were assigned to the program had committed grand theft and received stolen property. Most, however, were incarcerated for failure to provide child support.

MISCELLANEOUS ALTERNATIVES

Other miscellaneous alternatives to incarceration are emerging very rapidly; it is almost impossible to keep abreast of them. Most, however, are not far from total incarceration and represent only a small step from complete loss of freedom.

The California Youth Authority launched an experiment some years ago at its Southern Reception Center in which it randomly selected an experimental group and kept it separate from other institution-bound juveniles. It then established a program which gave principal emphasis to a combination of group and individual counseling and to limited work activities. Instead of staying six to nine months, the average stay for Youth Authority wards, those assigned to this program were held for five months. Upon release, and after 15 months of elapsed time, the recidivism rate for the experimental group was less than that of the control group, with only about one-fifth of the experimental cases requiring recommitment, as contrasted to approximately one-third of the control cases.

This encouraging development led to an expanded and modified effort known as the Marshall Program which is now in progress. This program minimizes formal academic and trade training and concentrates, instead, upon personal changes induced through a therapeutic community model. The program is housed in a 50-bed cottage and those assigned to it are expected to stay only a few months. Thus, the program will process 180 to 200 wards per year, as contrasted to traditional programs which process only 75 to 80 boys through facilities of the same size.

Los Angeles County is experimenting with similar short-term programs for serious delinquents. One such program for disturbed delinquent girls at Lathrop Hall involves only a short stay of two and one-half to three months, yet produces results which seem to be notably superior to traditional placement for such girls.[28]

Los Angeles County is now beginning a short-term program for boys at Juvenile Hall. It is also experimenting with a program in which it busses apparent probation failures from their homes each day to one of its probation camps. Rather than having to house, feed, guard, and care for these wards, this approach permits them to live at home, thus concentrating solely upon a school and counseling program.

Other correctional day-care programs are in operation in San Mateo and Contra Costa Counties in California and in the Parkland Project in Louisville, Kentucky. These programs can be used for probation failures in place of commitment or they can be adapted to parole programs. They can be administered locally with State subsidy or by the State itself.

SUMMARY

It seems clear that the numbers of alternatives and the amount of experimentation in the post-trial phase of the correctional process are greater than in any other phase. Nevertheless, more questions remained unanswered than answered.

1. What kinds of programs are needed for what kinds of offenders? The findings cited above were generally encouraging in the sense that they implied that, with careful programming, the number of offenders who might safely be kept in the community could be enlarged. Yet, at the same time, they shed little light on the problems of relating types of offenders to types of programs. Errors are probably occurring in two directions; first, in seeking complex programing for offenders who, because they are not basically criminal, could be corrected with only minimal controls; and, second, in failing to provide enough controls and direction for potentially dangerous offenders who must be carefully supervised.

The search for solutions is not a simple one. We tend to operate in extremes. If the minimal controls of the suspended sentence or probation do not work, we tend either to incarcerate or to plan elaborate therapeutic treatment. Neither extreme may be warranted for the majority of cases. The need, then, is for careful research which concentrates not only upon offenders but upon the nature of programs as well.

In considering types of offenders, the focus should not be narrow but concerned with the offender in a broader social context involving familial, educational, economical, and peer, as well as personality variables. Similarly with respect to programs, we need to know what their goals, methods, and outcomes are, what the evidence is to indicate that they are addressing fundamental problems, and whether it can be demonstrated that they are more effective than resources already available in the community.

2. What can be done to create programmatic controls in the community which will adequately replace those now provided by prisons and training schools?

Some offenders are predatory and must be controlled, but it does not necessarily follow that permanent and extended incarceration is the best answer. It may be a relatively poor choice. By contrast the few experiments mentioned above for serious offenders attempted to make the control function a part of the change strategy. Instead of incarceration, they used peer group and staff rewards and punishments, work details, temporary detention, and other measures of social control. Their idea was that control is successfully achieved only when it is made a part of a total program. It cannot be a separate function, as is a jail sentence, from the activities of daily living. Furthermore, the offender must have the chance to recognize and accept it as a legitimate part of living.

There are many problems, practical, legal, and ethical, in establishing community controls. For example, while it is customary for the court to incarcerate an offender indefinitely, and to permit prison and parole officials wide latitude in determining when he shall be released, it is much less customary to permit occasional incarceration of short duration in community programs. Paradoxically, constitutional and bureaucratic questions are likely to be praised. Conversely, it is extremely difficult within existing constraints to reward acceptable behavior by offenders in some special way. This, also, is paradoxical. In light of learning theory, the problem of extinguishing old patterns of behavior is difficult if nothing can be done to reward new patterns.

Finding ways to effectuate community controls are fundamental issues that confront those who work with offenders in any stage of the correctional process. If community programs are to succeed, then policies and statutes, as well as research efforts must be directed to their discovery and implementation. Effective methods are not now available.

3. To what extent will successful programs and reintegration for the offender require some form of social reconstruction?

The fundamental logic of the third revolution in corrections is that reintegration for the alienated offender is a necessity. Reintegration, in turn, implies some form of social reconstruction, some change in community institutions other than those which are strictly legal-correctional in nature.

Community acceptance of the offender, changes in educational programs, or genuine career opportunities may be a necessary counterpart to personal reformation.

The kinds of changes that are needed and how they can be induced are not known. They are a part of a number of broader societal problems relative to education, poverty, and employment. Not only does each of them require attention in its own right but also changes in the traditional policies and practices which make it difficult for the offender to benefit from advances that are made.

FOOTNOTES

1. Paul W. Tappan, *Crime, Justice and Correction*, New York: McGraw-Hill Book Company, 1960, p. 422.

2. *Ibid.*, p. 422.

3. For a more detailed summary and a list of bibliographical sources, see Tappan, *op. cit.*, pp. 546–549.

4. See Sheldon Glueck, (ed), *Probation and Criminal Justice*, 1933, p. 228; and Ralph W. England, "What is Responsible for Satisfactory Probation and Post-Probation Outcome?" *The Journal of Criminal Law, Criminology and Police Science*, 47 (1957), p. 675.

5. Ralph England, "What is Responsible for Satisfactory Probation and Post-Probation Outcome?" *Journal of Criminal Law, Criminology and Police Science*, 47 (March-April, 1957), pp. 667–677.

6. Max Grunhut, *Penal Reform*, New York: The Clarendon Press, 1948, pp. 60–82. For an additional summary see Tappan, *op. cit.*, pp. 576–584.

7. "What is Responsible for Satisfactory Probation and Post-Probation Outcome?", *op. cit.*, pp. 667–677.

8. Daniel Glaser, *The Effectiveness of a Prison and Parole System*, Indianapolis: The Bobbs-Merrill Co., Inc., 1964, Chapter II.

9. Tappan, op. cit., p. 661.

10. Charles H. Miller, "The Fine—Price Tag or Rehabilitative Force," *NPPA Journal*, 2 (Oct., 1956), pp. 377–385.

11. See *Wisconsin's Huber Law in Action*, Milwaukee: Wisconsin Service Association, 1958; and V. A. Verhulst, "Report on Progress and Promotion of a County Work Release Program (Wisconsin's Huber Law)," Madison: State Department of Public Welfare, mimeographed, 1963.

12. Stanley E. Grupp, "Work Release—Statutory Patterns, Implementation and Problems," *The Prison Journal*, XLIV (Spring, 1964), pp. 4–25; and Stanley E. Grupp, "Work Release in the United States," *Journal of Criminal Law, Criminology and Police Science*, LIV (Sept. 1963), pp. 267–72.

13. Verhulst, *op. cit.*, p. 4.

14. *Ibid.*

15. LaMar T. Empey and Jerome Rabow, "The Provo Experiment in Delinquency Rehabilitation," *American Sociological Review*, 26 (Oct. 1961), pp. 679–696; "Ethics and the Provo Experiment," an exchange of letters, *American Sociological Review*, 27 (April, 1962), pp. 256–258; LaMar T. Empey, Maynard L. Erickson and Max Scott, "The Provo Experiment: Evolution of a Community Program," in *Correction in the Community*, Monograph No. 4, California State Board of Corrections, Sacramento, 1964, pp. 29–38.

16. Albert Elias and Saul Pilnick, "The Essexfields Group Rehabilitation Project for Youthful Offenders," *Correction in the Community*, California Board of Corrections, Monograph No. 4, June, 1964, 51–57; "Essexfields Group Rehabilitation Center," New Jersey Department of Institutions and Agencies, Division of Correction and Parole, Annual Report, 1963, and Saul Pilnick, "The Essexfields Concept: A New Approach to the Social Treatment of Juvenile Delinquents," Newark: Essexfields Group Rehabilitation Center, 1964, mimeographed. The latter are available in the Information Library of NCCD.

17. F. Lovell Bixby and Lloyd W. McCorkle, "Guided Group Interaction and Correctional Work," *American Sociological Review*, 16 (August 1951), pp. 455–459; Lloyd W. McCorkle, Albert Elias, and F. Lovell Bixby, *The Highfields* Story: A Unique Experiment in the Treatment of Juvenile Delinquency, New York: Henry Holt and Company, 1958; LaMar T. Empey and Jerome Rabow," The Provo Experiment," *op. cit.*

18. All of the above findings are summarized in LaMar T. Empey, "The Provo Experiment: A Brief Review," Los Angeles: Youth Studies Center, University of Southern California, mimeographed, 1965.

19. "Essexfields Group Rehabilitation Center," *op. cit.*

20. See Clyde Sullivan, Marguerite O. Grant and J. Douglas Grant, "The Development of Interpersonal Maturity: Applications to Delinquency," Psychiatry, 20 (Nov. 1957), pp. 1–15.

21. Several publications have been made on the Community Treatment Project. For a general description see Marguerite C. Warren, "An Experiment in Alternatives to Incarceration for Delinquent Youth: Recent Findings in the Community Treatment Project," *Correction in the Community: Alternatives to Incarceration*, Sacramento: Board of Corrections Monograph No. 4, June, 1964, pp. 39–50. For greater detail and current progress reports, see Community Treatment Project Reports Nos. 1–6, Sacramento: California Youth Authority.

22. For a more complete description of Highfields, see Lloyd W. McCorkle, Albert Elias, and F. Lovell Bixby, *The Highfields Story: A Unique Experiment in the Treatment of Juvenile Delinquency*, New York: Henry Holt & Co., 1957.

23. For some description of New York's programs, see Alexander Aldrich, "The Opportunity and Rehabilitation Center Program," New York State Division for Youth, 1960; and Milton Luger, "Launching a New Program: Problems and Progress, *Syracuse Law Review*. Both publications on file in the Library of the National Council on Crime and Delinquency.

24. Rosemary McGrath," Residential Group Center for Delinquent Girls," *The Welfare Reporter*, XIV (July 1963), New Jersey Institutions and Agencies, pp. 66–73.

25. This Experiment was begun in 1964 and joins in a common enterprise the Boys Republic, a private institution for delinquents, and the Youth Studies Center of the University of Southern California. Research funds are provided by the Rosenberg and Ford Foundations. See LaMar T. Empey,

George E. Newland and Steven G. Lubeck, *The Silverlake Experiment*, Youth Studies Center, University of Southern California, Progress Report #2, 1965.

26. Lewis Yablonsky, *The Tunnel Back: Synanon*, New York: The MacMillan Co., 1965. The remarks presented here are taken, in part, from a review of *The Tunnel Back* by LaMar T. Empey, *Social Forces* 44 (December 1965), pp. 268–9.

27. Samuel D. Mock, "Crofton House—A Study in Group Genesis," San Diego Department of Honor Camps, mimeographed; and "Crofton House: One Year Old," San Diego Department of Honor Camps, mimeographed.

28. *Development of a Program Research Service in Probation*, Los Angeles County Probation Department, Research Report No. 27, January 1966, pp. 18–22.

2

PART IV
POST-INCARCERATION PERIOD

The third major segment of the correctional process in which alternatives to incarceration have been sought is the period following imprisonment. But is this not a contradiction in terms? After a man has been imprisoned, is it not a little late to seek other alternatives?

The answer is no. The problems of the newly released inmate are profound. Those of the youth entering the labor market for the first time pale by comparison. The often unskilled convict usually is not only penniless but must carry the stigma of a criminal record; socially he is already a failure. If he has dependents, the problem is worse.

In a national survey to determine the economic problems of the newly released prisoners, Glaser discovered that many releasees subsist only through the assistance of friends and relatives. There are amazingly few programs which give the new parolee a sound economic base from which to start a new career. If they have no such recourse, they must resort to shelters of welfare missions on skid row. Failing in either place, they may be heavily predisposed to return to criminality.[1] And even if they do not, subsistence on skid row scarcely makes them contributing members of society.

It is realistic, then, to speak of some post-release aid or support as an alternative to incarceration. After spending an average of at least $1500 per year (and possibly much more) for several years to keep a man confined in prison, it appears to be extremely poor economics to fail to make some plans for post-release aid that might prevent his returning to prison. Ironically, the cost alone of apprehending and returning him after another crime can easily exceed the cost of providing the financial aid which might prevent his return.

PAROLE

Parole, of course, is the most common alternative. There are very few offenders in prison today who will not be paroled some day, for most offenders do not complete their full sentences in prison but are released to complete them under the supervision of a parole officer.

Parole is similar to probation in the sense that it is a casework operation which is expected to provide a multitude of services but which is limited because of the excessive demands, both in terms of functions and caseload, which are placed on a parole officer. It is probably fair to say, therefore, that the average parole officer is seen more by his parolees as an agent of law enforcement than as a resource for solving problems. Given the demands placed upon him he must set priorities among the functions he is expected to perform, and the supervisory function has high priority. It is one of the ironies of parole that the parole officer must often spend more time justifying his actions in the event of a parole failure than in understanding why the parolee failed or in what ways he may differ from nonfailures. These are important research questions which must be answered but officials are usually so much more concerned with failure than long-range research issues that the latter are slighted.

Parole, like most other correctional tasks, has not been studied systematically, especially with respect to sorting out types of offenders and types of programs so as to maximize whatever services are offered. The California Department of Corrections has, in recent years, experimented with casework size because of the general belief that a decrease in it will have a favorable effect. However, the overall findings of the experiment did not support the belief. So long as some differentiation was not made among types of offenders, the success rates of parole officers with small caseloads were not significantly higher than those with large ones.[2] But when parolees were separated into "high," "medium" and "low" parole risk categories, using a complex statistical technique for differentiation,[3] significant differences did occur. "High" and "low" risk parolees did not benefit from increased supervision. They did about as expected. The "low" risk group may not have needed supervision at all, tending to succeed as expected, while the "high" risk group obviously needed something more than parole because of their tendency to fail. But the "medium" risk group did benefit from increased supervision, doing better than was expected. The conclusion from this study, therefore, was not an unqualified endorsement of increased services, at least in their present form. Instead, it suggested that by careful attention to both types of offenders and types of programs, some improvement might be made. But, again, if it were made it could only be done through planned experimentation and a careful analysis of results.

Besides regular parole, a number of other suggestions have been tried on a limited basis, beginning with very simple expedients and extending to more complex efforts.

PRE-RELEASE TRAINING

The first expedient involves efforts to better prepare the inmate for release.

Glaser says that he noted repeatedly in Federal and State prisons that much more attention was given to orientation classes for newly admitted prisoners than for prisoners who were on the verge of release. The latter were elaborately developed in some cases, were diminished or not apparent at all in others. The trouble is that no one is available to complain in the institution about failures on parole. Such persons are present, however, to complain about failures in orientation classes for new prisoners.

The problem speaks to the fragmented nature of correctional administration in the U.S. Whereas a prison staff can benefit from good admission orientation programs, it won't benefit directly from good pre-release programs. Instead, the offenders themselves and their parole supervisors suffer from the failure of pre-release programs. Since they operate independently of the prison, their problems are not readily observed.

Several steps might be taken to remedy the situation. The first would be to involve agents more directly in pre-release orientation programs, perhaps even place them in charge. This would require them to maintain liaison with the prisons and to become acquainted with their future parolees, prior to release, something that is done only in sporadic fashion at the present time. The mere scheduling of parole officer visits to prisons to talk to releasees would represent a major improvement over much current practice.

The second step would be to develop more elaborate pre-release orientation programs. Relatively little is done to discover on a systematic basis the problems inmates foresee, the fears that they possess. The problem of bridging the gap in communication between staff and parolees would be greatly enhanced, therefore, if inmate perceptions were taken into account.

One innovation at the Federal Youth Institution in Englewood, Colorado, has been the requirement that every prospective parolee write to his future parole supervision officer. His personal letter is expected to indicate his job interests, his abilities, and any problems he anticipated. The letter establishes at least a beginning dialogue between the two parties. Subsequent correspondence, it is hoped, would help both inmates and officers to become more realistic in their perceptions of the supervision situation.

A third step would be to establish more effective contacts between offenders and various segments of the community, social as well as economic. Prisoners realize that they do not share common interests, common language, and common points of view with many community residents. Some initial contacts might help to dispel this problem. Furthermore, inmates need viable contacts between themselves and representatives of such agencies as the Vocational Rehabilitation Administration, the Office of Employment, continuation schools, and various other private as well as public agencies. These agencies might participate on a regular basis with inmates prior to their release. Such programs would require more time and effort than has been given in the past. But inmates need simple conversations with outsiders or the opportunity to roleplay job interviews, discussions with the opposite sex, or informal meetings with new acquaintances. These are the kinds of problems that are encountered repeatedly and with which inmates need to develop greater confidence.

LOANS FOR RELEASED PRISONERS

A proposal that has been frequently made to remedy some of the post-release problems of prisoners is to provide them with financial loans to meet their immediate needs. A national survey revealed that loans are available only in 10 States, leaving 40 States in which funds are non-existent. Even where loans are available, they are not large and apparently represent nothing more than a palliative. California's average loan was only $1.50, although loans of up to $75 could be arranged for other needs vital to a man's employability, such as the purchase of tools. In most of the remaining States the loan figure was approximately $10.

Five of these surveyed States have administered loans for 10 or more years and seem reasonably happy with them. The California Department of Corrections, for example, loaned $27,000 in some 18,000 loans in 1961–62. During this period, $13,000 was collected on loans previously made, or almost half of what was paid out.[4]

Not all loans are made by public agencies. In Louisiana and Kansas, funds are provided through inmate contributions and activities. In Texas, the prison rodeo is the source of income. The Federal Probation offices in Atlanta and Chicago also administer loan funds provided through the Inmate Welfare Club of the Atlanta Federal Penitentiary.

Other small loans or grants are made by such private sources as the Osborne Association of New York, the Salvation Army, the Volunteers of America, and a number of other agencies, many of which are listed in the Directory of Prisoners' Aid Agencies in Canada and the United States.

Some of these private agencies do not require repayment. However, repayment in other jurisdictions has not always been bad, varying from 10 percent of the Kansas Reformatory Inmate Welfare Fund to 80 percent for a loan at the Texas Penitentiary. Connecticut and California, which have made loans for over 40 years, reported 50 percent repayment by men and 10 percent by women. Utah also had a 50 percent return, Wisconsin 60 percent, and Michigan 75 percent.[5]

Since the objective of loan funds is to provide emergency assistance to men whose resources are very low, some loss of funds is to be expected. Even so, correctional people react differently regarding the lack of repayment. Some correctional officials believe that loans contribute to the dependence of inmates and interfere with their assuming responsibility for themselves. Others, such as Richard McGee, Administrator of California's Youth and Adult Corrections Agency, believe that a small annual loan fund, even if only partially repaid, more than pays for itself, since it probably prevents several violations by economically desperate parolees each year. The cost of processing and reimprisoning only a few violators can exceed the annual depletion of the loan fund by a larger number of people.[6]

If there is even some prospect that a destitute parolee can be helped to become self-sufficient through a loan, that loan may be particularly appropriate, especially if he is expected to repay it. It defines assistance as something more than charity and permits the offender to retain some dignity if he is successful.

UNEMPLOYMENT INSURANCE

Another possibility is unemployment insurance. Glaser reports that a released prisoner in Great Britain who has no employment and few resources is eligible for unemployment insurance. He must bring a certificate of release from prison to the local office of the national assistance agency which then handles his case like that of any other destitute person. The employment insurance is sufficient to meet the man's minimum needs but not nearly so much as he might earn if he were employed. In fact, he cannot receive unemployment insurance if he is unwilling to work when reasonable employment can be procured.

In the U.S., there are two major obstructions to released prisoners receiving unemployment compensation. First, the unemployed person must previously have been employed at a firm covered by unemployment insurance regulations so that his employer made contributions to unemployment insurance funds. If he was not so employed, he is not eligible.

Second, most States specify that in order to be eligible for insurance, the unemployed person must have earned at least a specific amount during the preceding year. For example, in Illinois, earnings of at least $700 in the preceding year are required, with $150 being earned in each of two different quarters. This stipulation alone is sufficient to rule out unemployment compensation for any individual who has been confined during the previous year.

It is important to note that these limitations on unemployment compensation are applicable not only to criminal offenders but to persons who have been hospitalized or disabled for over a year. Even if the individual can meet the first condition, that of demonstrating that his last employment was with an employer who had contributed to unemployment insurance funds, he would be ineligible. These conditions would seem to be especially crippling, not just to offenders but to persons who, through no fault of their own, have been in State or veterans' hospitals and who, regardless of the number of years they may have been employed regularly, are now unable to get unemployment insurance funds simply because their unemployment has extended for over a year.

A reasonable alternative ". . . would provide that anyone who can demonstrate that he was involuntarily unemployed during the period when employment is required for current benefits would be permitted to claim the benefits on the basis of a prior employment record, before the period of unemployability."[7]

For parolees this would require special legislation defining imprisonment as involuntary unemployability because court decisions to this point have held that prison and jail inmates are not involuntarily unemployed because their confinement resulted from voluntary criminal acts.

Another way in which unemployment compensation could be used constructively would be to tie it to job training programs. Many young workers, not just offenders, are particularly subject to unemployment. A realistic program of economic assistance for them would involve some relief payments, but payments made only in conjunction with counseling, training, placement, and supervision programs. The recipient would have to participate in vocational training programs and accept suitable employment when available. Not only would these steps help to guard against abuse of such a program, but assistance is usually always less adequate than normal earnings.

The issue is not whether the offender should be given charity, but whether public and private resources can be used more effectively than in the past. Hopefully, some financial assistance and training could become a logical extension of current correctional activities. Hopefully, they could induce a more positive response from offenders at a reduced cost to society. But an important caution would be that, if such activities are added piecemeal to existing facilities, they may do little to reduce the overall problem. The correctional process must be considered in total, with the use of independent activities such as these coordinated into some effective scheme.

THE HALFWAY HOUSE[8]

William Roscoe wrote almost a century and a half ago of the need for some kind of halfway house.[9] His idea was reviewed by a Massachusetts commission appointed to study prisons. Convicts, the commission noted, are often entirely destitute and the natural prejudice against them is so strong, that they find great difficulty in obtaining employment.[10] It recommended, therefore, that some halfway house facilities be created. But the recommendations were not acted upon by officials of the State prison until almost 15 years later; when they were acted upon, they were rejected. Prison officials questioned whether discharged offenders would be willing to reside in such an institution and they feared, furthermore, that one resident might "contaminate" another.

In the 150 years since the original recommendation of the Massachusetts commission, the halfway house movement has made surprisingly little progress. Impetus for the movement did not gain appreciable support in the U.S. until well after the conclusion of World War II. And when it did, it probably received greater encouragement in the area of mental health and alcoholism than in crime. In 1958, there were approximately nine halfway houses for former mental patients and about 30 such facilities for alcoholics.[11] But despite these developments, progress has been uneven. Experience with this kind of residential aftercare is extremely limited and there has been a rather high incidence of halfway houses closing down after a few years or even a few months of operation.[12]

For those halfway houses that did persist, religious and philanthropic, rather than governmental organizations were the pioneers. One of the first was Dismas House, a residential facility for offenders founded in the slum area of St. Louis. Dismas House occupies a 91-year-old former school building. Residents enter the house voluntarily and may depart voluntarily. The main programmatic emphasis is upon the creation of employment opportunities. Perhaps for that reason, Dismas House does not accept drug addicts, sexual offenders, or alcoholics, its position being that each of the latter is ill in a special way and needs special help which they cannot provide.[13]

A similar facility with religious backing is St. Leonard's House in Chicago. St. Leonard's philosophy may be said to represent the philosophy of halfway houses everywhere. The critical period for the offender, it feels, is during the first month or two following release from prison. Whatever happens during that time will determine success or failure. By helping parolees to find work and to stay on the job, St. Leonard's believes that it can be the vehicle by which parolees can become independent and self-supporting.[14]

In 1963, the Salvation Army Family Services Department in Los Angeles set up a community residential program utilizing a group-oriented, self-help approach. The project has a capacity of 17 male residents, 16 years of age and above. It also serves as a community correctional center for an additional 20 men and women who do not reside in the house but who participate in the therapeutic aspects of the program.

This particular halfway house devotes considerable attention to the creation of a therapeutic culture. At the beginning five parolees drew up articles of operation to which residents are supposed to subscribe if they are to remain in residence. They are expected to enter the home within 24 hours after release from prison, find steady employment within three weeks, use the money that is earned to pay for rent, food, toilet articles, clothing, and transportation, attend group meetings on Tuesday and Thursday evenings, maintain personal and household cleanliness, and observe restrictions against alcoholic beverages, narcotics, barbituates, or sex on the premises.[15]

Evaluation

Religious and philanthropic halfway houses have not been carefully evaluated. Dismas House reports having provided a home for 300 men since it opened in October 1959, of whom only 20 have returned to prison.[16] But such figures say little about the particular population who avail themselves of the help which Dismas House provides, whether they would have succeeded otherwise, or how careful the follow-up was in determining who had and had not been returned to prison.

St. Leonard's House reports more difficulties than Dismas House. A check on the men who had passed through the St. Leonard's in 1961 showed that 23 were either fugitives or had been incarcerated by the end of the year.[17] Again, however, the same problems of interpretation exist. So long as one does not know the population characteristics of those who make use of such halfway houses, whether they differ from one another or whether there is some natural selection process, there is no method of telling how well residents might have done had the halfway house not been available to them. Until some determination can be made of the success and failure rates of similar men who do not reside in such facilities, it will be difficult to ascertain whether they help to reduce recidivism or not. Furthermore, it will be impossible to begin to isolate the offenders who do not use such facilities and why they do not.

These problems of evaluation by no means depreciate the good intent or services of privately supported facilities. It would be foolish indeed to try to convince those who have made use of them that they have not been helped. The problem is that, without more systematic knowledge, it will be difficult to know whether such houses should be expanded or how they might be improved.

STATE FACILITIES

The number of State and local halfway houses is increasing. The North Carolina plan was mentioned earlier. The sleep-in, work-out principles of the Huber plan are being applied to prison inmates. If, after having served 15 percent of his time in prison, an inmate has performed well in the eyes of staff he becomes eligible for placement in camps which are located adjacent to population centers. From these camps he is free to go each day to regular employment in the county. His earnings compensate for part of his living expenses, go to the support of his family, or are held in trust towards the day of his parole.

Crofton House in San Diego is a large house leased by the county in a middle-class residential section of San Diego. Selected inmates from San Diego's honor camps are permitted to live there. Like the program in North Carolina, the residents of the house work in the community, but the program also includes systematic efforts to induce personal and attitudinal change. Guided-group interaction is used daily as a method of helping inmates to learn to control their own behavior, to make decisions, and to solve problems.[18] Group discussions are held six nights a week and although they are supposed to run only one and one-half hours, they often last much longer. Efforts to introduce shorter meetings are reported to have been rebuffed by residents who feel that shortened meetings would not allow adequate time to solve the problems that are elicited.

In Wilmington, Delaware, the Prisoners' Aid Society has been operating a halfway house since 1958 for 10 residents in quarters provided by the State. Apparently the program is not highly structured although the stated aim of the facility is standard: "to provide continuity of treatment and to ease the shock of transition from confinement to freedom." [19] Discussions are held with outside speakers once a week and counseling is provided by the agency which refers a man to the house.

Another State-supported facility is the Robert Bruce House in Trenton, New Jersey. Eligibility is restricted to men who have participated in counseling programs in institutions. It is expected that no man will remain in residence for more than four months. Group therapy is used in the hope that individuals will gain personal strength from an analysis of common problems and shared difficulties.[20]

Crofton House is the only program that has been established on an experimental design, but it is too early for published results. Until the others conduct research on their efforts, they will be forced to depend upon intuition and testimonials as to their effectiveness. It will be impossible to speak with certainty about their results.

FEDERAL PRE-RELEASE CENTERS

Perhaps the best-known public halfway house facilities are those established in late 1961 by the Federal Bureau of Prisons in New York, Chicago, and Los Angeles. A fourth center opened in Detroit about a year later and is operated jointly by the Federal Bureau of Prisons and the Michigan Department of Corrections for both State and Federal youthful offenders.[21]

Each of the Federal Centers accommodates a maximum of 25 juvenile and youthful offenders who are transferred to the centers three or four months before they would ordinarily receive a parole date. The centers, therefore, serve as clear alternatives to longer incarceration. At first, only the better risks were selected but after it became apparent that the centers would not be full unless more men were released to them, they were used for all youths with parole destinations in the metropolitan areas where the centers are located. In a few cases some new offenders, although they have never been incarcerated, are taken directly from the courts to the center.

The centers have a high ratio of staff to inmates, approximately one employee to every three inmates. Staff members include the center director, a caseworker, three correctional counselors, one of whom is a specialist in employment counseling, and a number of part-time employees. Activities include individual counseling, employment counseling, evening group counseling, lectures, and audio-visual programs.

A new resident begins the search for a job two or three days after he arrives at the Center. When he finds employment he leaves the Center each morning to go to work and returns each night. As he acquires income, he is required to pay some of his own expenses, including meals and laundry. He is also required to open a joint savings account with his counselor so that both must sign for withdrawal of money. He also receives budget counseling.

As the time for release approaches, he may spend week-ends at home. His visits serve not only as rewards but as a means of uncovering problems with which he and the program must deal before termination is achieved.

Evaluation

For various reasons, the Federal Pre-release Centers have not been evaluated through experimental design. Consequently, definitive data on their success and failure rates cannot be supplied. However, center graduates were compared to a number of parolees who had been released through regular parole to the three cities involved. The members of this hypothetical control group were matched with experimental subjects in terms of sentence, age, race, and other variables as a means of controlling as many influences as possible. After this was done, and comparisons made, the parolees at the pre-release guidance centers seemed to have lower failure rates than the other group.[22]

HALFWAY HOUSES FOR ADDICTS

The pertinence of halfway houses for narcotics addicts is apparent. Not only have addicts in the past been prone to quick relapse but their tendency to commit crimes against property has caused them to be treated as criminal offenders. They must be very much a part of any consideration of the correctional process. Furthermore, as Geis points out, the strikingly high failure rate of addicts in current programs has resulted in an almost universal tendency to insist that such failures have followed from inadequate after-care programs.[23]

Numerous speakers who appeared before a U.S. Senate Committee enunciated the need for post-incarceration help. The Superintendent of Riverside Hospital in New York City, for example, told the Committee that time in a hospital is very important for the addicts in his care but that the period after return to the community may be more important. When a person leaves the hospital he is subjected again to the same forces which caused him to use drugs in the first place. If he cannot be protected at that time, the benefits of any hospital care are lost.[24]

A Federal probation officer pointed to the public abhorrence of the addict and maintained that the New York State Employment Service would not refer any adult individual with a history of narcotics use to a potential employer for a job interview. He maintained also that private case work agencies have refused to assist former addicts.[25]

Finally, the veritable chorus of support for some kind of community help was voiced by Dr. Harris Isbell, Director of the Addiction Research Center at Lexington, Kentucky. "A person," he said, "going home after a period of institutionalization . . . needs a great deal of help, support, supervision, which is, I think, properly the responsibility of the community." [26] These are not unfamiliar statements and have been made about all types of offenders, young and old, male and female, addict and non-addict. They simply reinforce the notion that some consistent and coherent series of steps are needed in the correctional process by which to make correctional systems more efficient.

The range of halfway-house facilities which have been used for addicts is about as broad as the ones which have been used for other offenders. In Greenwich Village there is Village Haven, a three-room apartment near the New York Women's House of Detention, where the Reverend Daniel Egan houses female addicts in need of temporary shelter.

The Metropolitan Hospital in New York has been treating addicts since November 1959 in an after-care program which has been labeled "Quarterly-House." The program utilizes medical personnel from New York Medical College and keeps an addict for a 21-day detoxification and rebuilding process at the Hospital. He is then required to participate in the after-care program at the Hospital on a weekly basis.[27]

Two programs, far more elaborate than either of the two just mentioned, have been under investigation in recent years. The first is Daytop Lodge, a facility operated by the Kings County Probation Department and financed by the National Institute of Mental Health for a period of five years. Daytop Lodge is a virtual replica of Synanon, the private community of ex-drug addicts located in Santa Monica, California.[28] Leadership for the Daytop program has generally been recruited from Synanon residents. The hope, of course, is that a governmentally sponsored agency can create the same kind of climate as the private Synanon residence did—community sessions in which there is savage candor regarding the problems of the addict and an environment which is supportive and helpful.

The Daytop building is a 20-room Riviera-style house in Tottenville, Staten Island, New York. Probationers, rather than parolees, are its subjects. In a technical sense, therefore, Daytop Lodge is designed for addicts who have not been imprisoned, rather than for those who are coming out of prison. Nevertheless, public hostility to Daytop Lodge has been great. It has paralleled the resistance encountered by Synanon in Santa Monica and other branches located elsewhere in the country.[29]

Research conclusions have not been published on Daytop Lodge—therefore, it is impossible to present findings. Hopefully, it will provide suggestive leads regarding the most efficacious manner to deal with narcotics addicts.

The second is the East Los Angeles Halfway House operated by the California Department of Corrections, with the help of a National Institute of Mental Health grant. It opened in October 1962.[30]

The residents of the House are all male felons with a previous history of drug use. They are gathered into the House from a variety of California institutions. Originally, residents reported to the House immediately after release. Later, the practice was set up of having them report about a month prior to their return to the community so they could receive a better understanding of what would be expected of them. They are visited by a representative of the Halfway House and take part in group meetings with other persons who will be living at the House.

The House has had an average residential population of about 25. It is located near mid-town Los Angeles which has the highest narcotics use rate in the city. It was placed in that area because most of the parolees who would be in residence lived in that neighborhood prior to incarceration.

The program has varied considerably. A heavy emphasis has always been placed upon employment but, in addition, efforts were made at the outset to create a therapeutic community, with heavy concentration upon daily group meetings, both large and small. However, this proved unworkable for two reasons. First, length of stay at the House was relatively short, varying between 30 and 90 days. This short stay, coupled with a rather high failure rate, made it extremely difficult to establish the kind of treatment culture which is needed in a therapeutic community.

Second, the residents of the House were extremely resistant to being involved in a concentrated program. They felt they had served their time, and simply did not agree with the prevailing philosophy that they needed a halfway house. Whether right or not, staff-resident differences created real blocks to communication. As a result, a small, in-house research project was set up which involved inmates as well as staff. Both groups were interviewed and differences defined. The program was revised somewhat as a consequence.

Joint staff-inmate committees were created: an orientation committee, an employment committee, a community relations committee, a recreation committee. These committees then set about revising and updating house rules and regulations. The roles of staff and inmates were reconsidered. The length of stay at the Halfway House was changed. The content of group meetings was revised. They became less concerned with psychotherapeutic problems and were devoted instead to specific house issues, to the objectives of the various committees, and to a Narcotics Anonymous group made up of non-residents as well as residents.

It is impossible to say whether such changes as these will be salutary or not, but the experience reinforces the notion that efforts to institute lasting changes in the inmate segment of community correctional settings will inevitably produce strain in the staff segments and require some changes on their part. Such strains are inevitable if the potential contributions of inmates to the rehabilitative process are to be accepted as legitimate. Unless they are, too much energy is devoted on the parts of both staff and residents to protecting one's group- and self-identity in a climate of conflict.

Research on the Halfway House was conducted under the direction of Gilbert Geis of California State College and by the Department of Corrections as well. Men entering the House were selected on a purely random basis from among a greater number of eligibles, all of whom were felon addicts coming in to the East Los Angeles area. They were compared, after release, to a control group that was placed on 30-man case loads.

Success and failure rates were tabulated by the Research Division of the California Department of Corrections. Comparisons were made, over a 12-month period, between 116 experimentals and 109 controls. Measured in terms of return to drugs, involvement in criminal activity, or in technical violations which necessitated their return to incarceration, the experimental group did not perform better than the controls. Twenty-eight percent of the experimentals and 31 percent of the controls succeeded. The variant rates of success were of no statistical significance at any acceptable level.

As another measure of success and failure, "amount of free time" was also used. "Free time" refers to time spent by the parolee in the community, either on regular parole status or in a combination of residence in the Halfway House and regular parole. This was thought to be an especially important measure of success and failure because many people have theorized that the usage of drugs must be regarded as a chronic condition and that longer periods of time between drug use would represent some sign of progress. But the figures relative to this measure were no more encouraging than the first. The average amount of free time for the experimental group was 33 weeks per man. For the 109 persons in the control group, it was an average of 34 weeks per man.

Despite their negative character, these findings were no less important than findings of success for the Halfway House. The fact that data are available makes it a far more important endeavor than halfway houses for which no data are available. Furthermore, the experiment elicited a number of other issues on which better data are needed: areas of conflict between research and action staff, the difficult problems of observing and characterizing the nature of program process, and the need for more sensitive instruments with which to characterize both process and outcome.

COMMUNITY CORRECTIONAL CENTER

The final type of post-incarceration alternative is being explored in

California where, in 1963, the Legislature passed a bill permitting the Department of Corrections to embark upon a comprehensive, eight-point approach which would hope to combine under one administrative unit several kinds of services.[31] Each of these kinds of service included has been described as potentially useful by itself. This program sought to combine all of them under one head so that they might be better coordinated.

In terms of a logical sequence, the first unit would be a pre-release guidance center. Men who had been granted parole would be moved to the center for assistance in home placement and job contacts. The parole agent would meet with the parolee to prepare him for his release.

The second would be a 50-bed halfway house. The criteria are not too clear as to who would be sent there. However, one major function of the house would be to provide living quarters for those who do not have adequate housing or resources. It would also serve as a place in which parolees might receive counseling services and perform some constructive leisure-time activities.

The third would be an out-patient psychiatric clinic designed to provide both individual service and family counseling.

The fourth would be a "halfway back" center for parolees who are making a poor adjustment. Presumably this halfway back center would be located in the halfway house and, designed for individuals who appear to be in danger of return to criminal activity. They would be placed in the residence to prevent their return to total incarceration.

The fifth would be a sheltered workshop for parolees not able to obtain a job. Paid work would be provided so as to avert the necessity of offenders returning to crime in order to support themselves.

The sixth would be a community correctional information service designed to fulfill two functions: to serve as a resource to the community in providing information on the problems of crime; and to serve as a means of securing community acceptance and assistance in furthering the community correctional center.

The seventh would be a field parole unit. Parole agents would have their offices at the center and would, therefore, be in a better position to maintain contact with the parolees under their supervision.

Finally, the last unit would be a pre-sentence diagnostic service designed, apparently, to aid the courts in evaluating and disposing of cases before them. The report is not clear as to whether the people served by this diagnostic center would be all offenders in general, or only those who are parolees assigned to the community correctional center. If it were the former, it could easily become a very large self-contained unit. If it is the latter, it might be smaller and more closely related to the primary paroling function of the center.

SUMMARY

There are two aspects of the post-incarceration phase which stand out. First, there is a universal belief that the newly released offender faces tremendous problems and, second, that the resources now available to him are inadequate. Yet, there is virtually no conclusive evidence, pro or con, regarding the efficacy of the techniques now being used. The primary reason is that few systematic studies have been conducted. Even so, there is enough evidence to suggest that neither a universal increase in parole supervision nor a halfway house placement for all offenders would provide the answer.

There seem to be two kinds of difficulties. The first has to do with the control function. Some offenders probably require intensive parole supervision, while for others it may be unnecessary. But despite the difficulties of sorting out which is which, the problem of providing meaningful help for the offender is even more insoluble. It has always been difficult to work with offenders while they are incarcerated involuntarily but after their release the problem, if anything, is enhanced. They have been conditioned in such a way that they are either extremely fearful of representatives of authority, bitterly resentful, or both. Perhaps that explains part of the inconclusiveness of findings regarding halfway houses and parole.

As a method of attacking this problem, virtually no study has been made of the offender's perception of his needs and problems and what kinds of help or direction he would prefer. In many ways, offenders accept the punishment philosophy and are extremely ritualistic. They believe that once they have "paid their debt to society" they should be free from omnipresent supervision. The belief makes sense from their point of view and is not inconsistent with tradition. The issue, therefore, is whether new devices can be developed by which aid and direction can be provided for the offender without engendering the self-defeating group and personal resistances which are now present. No matter how much the official representatives of society may believe the released offender needs control and help, those things cannot be supplied efficiently unless the offender is able to share that belief with them.

Thus, even more than the proliferation of what seem to be promising programs, there is need, first, for careful consideration of the theoretical problems involved and experimentation which is designed to examine them. Otherwise, older problems will be perpetuated in yet another guise.

FOOTNOTES

1. Daniel Glaser, *The Effectiveness of the Prison and Parole System*, Indianapolis: The Bobbs-Merrill Co., Inc., 1964, pp. 402–403.

2. Research Report No. 3, published by the Research Division, California Department of Corrections, Sacramento, California, March 1962, pp. 7 through 12; Joan Havel and Elaine Sulka, *Special Intensive Parole Unit, Phase III*, and Joan Havel, *Special Intensive Parole Unit, Phase IV*, Research Division, California, Department of Corrections, Sacramento, California, (no date).

3. Don Gottfredson and Jack Bonds, Base Expectancy, A Manual for Intake Base Expectancy Scoring, (from CDC-BE 61A), Research Division, California Department of Corrections, Sacramento, California, April, 1961.

4. Glaser, *The Effectiveness of the Prison and Parole System, op. cit.*, p. 409.

5. Glaser, *op. cit.*, pp. 408–412.

6. *Ibid.*, p. 409.

7. *Ibid.*, p. 413.

8. I am indebted in this analysis to Gilbert Geis who willingly shared with me his recent historical summary of halfway houses. See, "The East Los Angeles Halfway House for Narcotics Addicts," Sacramento: Institute for the Study of Crime and Delinquency, March 1966, (rough draft).

9. William Roscoe, *Observations on Penal Jurisprudence, and the Reformation of Criminals*, London: T. Cadell, 1819, p. 74.

10. Edwin Powers, "Halfway Houses: An Historical Perspective," *American Journal of Correction*, 21 (July-August 1959), pp. 20–22. The original reference is Massachusetts Legislative Document, House No. 1, Boston: 1817, p. 16.

11. Joint Commission on Mental Illness and Health, *Action for Mental Health*, New York: Basic Books, 1961, p. 179.

12. George J. Wayne and Iris K. Richardson, "The Halfway House," *Psychiatric Quarterly*, 37 (January 1963), pp. 1–2; and Brete Huseth, "Halfway Houses: A New Rehabilitation Measure," *Mental Hospitals*, 16 (October 1958), pp. 5–17.

13. William Krasner, "Hoodlum Priest and Respectable Convicts," *Harpers Magazine*, 222 (Feb. 1961), pp. 57–62; and Harry J. Cargas, "The Hoodlum Priest, R.I.P." *Homiletic and Pastoral Review*, 16 (January 1964), pp. 328–334.

14. St. Leonard's House, *Annual Report for 1964*, p. 3.

15. Edward C. Boyle, "Community-Centered Use of the Peer Group as a Treatment Tool," *Understanding and Use of Peer Relations in Corrections*, Proceedings of Fifth Annual Institute on Corrections, University of Southern California, Los Angeles, February 2–3, 1965, pp. 29–36.

16. Cargas, "The Hoodlum Priest, R.I.P.," *op. cit.*

17. *The Keys of St. Leonard's*, 1961 Annual Report, pp. 12–13.

18. Samuel D. Mock, "Crofton House—A Study in Group Genesis," San Diego Department of Honor Camps, mimeographed; and "Crofton House: One Year Old," San Diego Department of Honor Camps, mimeographed.

19. Robert G. Crosswhite and Maurice A. Breslin, Jr., "Bridging the Gap from Confinement to Freedom," *Federal Probation*, 23 (June 1959), pp. 46–52.

20. Robert Bruce House, *Continuity of Treatment in the Community Residence House*, Trenton, (no date).

21. Daniel Glaser, *The Effectiveness of A Prison and Parole System*, Indianapolis: The Bobbs-Merrill Co., Inc., pp. 415–419.

22. *Halfway House Programs for Delinquent Youth*, Washington, D. C.: Children's Bureau, Department of Health, Education, and Welfare, 1965, pp. 9–10.

23. Gilbert Geis, *The East Los Angeles Halfway House for Narcotics Addicts, op. cit.*, pp. 46–51.

24. United States Senate, Subcommittee on Improvements of the Federal Criminal Code, Committee of the Judiciary, 84th Congress, First Session, "Illicit Narcotic Traffic," *Hearings* pp. 1558–1575.

25. *Ibid.*, pp. 1660–1677.

26. *Ibid.*, 1461–1538.

27. New York Times, August 13, 1961.

28. Lewis Yablonsky, *The Tunnel Back: Synanon*, New York: The Macmillan Co., 1965. Synanon was discussed in detail in Part III, the analysis on the post-trial period.

29. Geis, *op. cit.*, pp. 56–57.

30. Gilbert Geis, "A Halfway House for Narcotic Addicts," *The British Journal of Addiction*, 61, Nos. 1–2, pp. 79–89. Gilbert Geis, *The East Los Angeles Halfway House for Narcotic Addicts*, Sacramento: Institute for the Study of Crime and Delinquency, March, 1966, (in draft).

31. Howard McGarry, "Community Correctional Center," *Correctional Review*, (Jan.-Feb. 1964), pp. 9–10.

PART V SUMMARY, CONCLUSIONS, AND EMERGENT ISSUES

Man's historical approach toward criminals has been characterized by a succession of three R's: revenge, restraint, and reformation. With the addition of each "R" important changes were made in correctional procedures.

Prior to the late 18th and early 19th centuries, revenge was the primary response; banishment, corporal, and capital punishment were techniques used. During the 19th century, the form of punishment changed. Restraint was added to revenge, and it was hoped that through imprisonment the offender would see the error of his ways and others would be deterred. But this change was not satisfying.

Another change occurred during the late 19th and early 20th centuries. Reformation was added as an important objective. The utility of punishment was questioned and attention was focussed upon the mental and emotional makeup of the offender. Efforts were made to alter these as the primary sources of difficulty.

Despite all of these changes, and the humanitarian impulses that made them possible, the bleak facts are that just as the monstrous punishments of the late 18th century failed to curtail crime, so during the 20th century have we failed. This is an especially significant fact because it appears that we are on the verge of yet another revolution, on the verge of adding another "R" to our list, that of reintegration.

The general feeling is that our focus upon restraint and reformation has been too restrictive. We have failed to account for the compelling pressures that are exerted upon the offender by persons living in his community, by social, educational, and economic pressures, by our overall culture and, within it, a host of dissonant subcultures. The various institutions whose mandate is to process the offender—the police, courts and correctional systems—have not even recognized their interdependence or the ways in which their collective responses either contribute to, or detract from, an integrated and effective attack upon crime. Therefore, in considering alternatives to incarceration, this analysis sought to examine the police-judicial-correctional process as a single process, to break that process into major segments, and to see what kinds of changes might be recommended.

The three units of analysis were; (1) the pre-trial period which constitutes a port-of-entry into the correctional system and predetermines to a great extent not only what will happen to the offender, but what kinds of problems will be faced by the judicial and correctional systems which follow thereafter; (2) the post-trial period which, for the offender, can result either in supervised, yet continuing participation in community life or an isolated period of incarceration, and which, in addition, can heavily determine the kinds of correctional programs for which society must plan; and finally, (3) the post-incarceration period in which, even though the offender has been previously locked up, some consideration might be given to means for shortening the period of incarceration and substituting other alternatives which will more effectively aid the reintegration process.

Questions were asked about each of these periods: What are the traditional methods that are used in each of them? What modifications are being tried? What is the available evidence as to the efficacy either of old or new approaches? And what additional knowledge is needed? The findings were these:

THE PRE-TRIAL PERIOD

The basic question in examining the pre-trial period is whether we are needlessly inserting too many people, especially juveniles, into the correctional process. The intake rate at present is much higher than the population growth rate, forcing endless and expensive expansion of correctional facilities. At issue is whether a legal response to certain kinds of offenses is most effective or whether there are other alternatives—familial, educational, vocational, or economic—which might be used. The evidence was rather striking that other alternatives should be considered.

1. What is the Extent and Nature of Pre-trial Incarceration? Accurate information is not available but it is estimated that somewhere between one and two million persons are held in jails and local lockups each year, of whom 20 to 25 percent is made up of unconvicted defendants awaiting trial. These local lockups are generally considered to be our poorest penal facilities. Furthermore, estimates are that over 100,000 of this group are children, with the number increasing each year. And it appears that as many as 60 percent of those who are detained, adults *and* children, may be released later for lack of evidence.

The cost to the taxpayer of pre-trial detention is impossible to estimate because reliable figures are not available. Obviously, however, it is great.

2. Who gets Detained? The available evidence suggests that the decision to detain is not made on the basis of consistently rational criteria for separating good risks from bad. In the case of adults, it is based simply on whether the accused can raise a cash premium, sometimes as low as $25 or $50. For juveniles, the decision hinges on rather loose and ambiguous criteria because statutes are ill-defined and the characteristics of the neglected and dependent child often overlap with those of the delinquent one.

3. *What are the Consequences of Detention?* The available evidence, though limited, suggests that those who are detained simply because they are not well-known, or cannot raise bail, are severely and unfairly penalized. They are far more likely—in some cases two or three times more likely—to be convicted and imprisoned. Even when the nature of offense, prior record, amount of bail, and type of counsel were held constant under experimental conditions, this finding held up. The significance of pre-trial detention stood out in every analysis.

So important is this finding that the evidence upon which it is based should be supplemented without delay. If it is substantiated generally, the irony would be that the outcome of many court hearings is based, not on the accumulation of evidence relative to the offense with which the defendant is charged or his prior record, but whether he can find some means to avoid the effects of pre-trial detention.

4. *Why are Detained Offenders Seemingly More Liable to Conviction?* Reliable studies are not available. It is speculated that the inability of a jailed defendant to prepare for his defense, his loss of a job, the possibility that his family will be placed on welfare, his appearance in court under guard, and his loss of self-esteem place him at a disadvantage in the eyes of decision makers—judges, juries, and those who prepare presentence investigations. They are more inclined to see him in an unfavorable light.

5. *What steps might be taken to minimize the amount of pre-trial detention?* Several have been suggested:

The first is a simple and speedy procedure for gathering facts about an accused person, upon which the court can make decisions during the arraignment or initial hearing. Some jurisdictions have isolated key factors upon which data can be gathered within an hour for use by the courts in making knowledgeable decisions about pre-trial release.

The second is increased use of release on recognizance. The practice is not new but its use can be expanded through such techniques as supervised release, parole to a responsible third party, daytime release for employment with return to jail at night, summons in lieu of arrest (as with traffic tickets) for many minor offenses, and revised bail procedures.

The rationale behind these alternatives has practical as well as ethical overtones. They are designed, first, to better guard the rights of the accused but, second, to maintain him as a functioning unit of society prior to his trial, if possible. None of the procedures can be worse than the hit-or-miss controls exercised by the bail-bondsman at present. And it should not be forgotten that even in many serious cases, it is the power to get bail, not rational criteria as to the responsibility of the accused, which determines his release.

6. What evidence is available as to the use of alternatives other than jail or bail? Wherever studies have been conducted, results are promising, especially where the release decision was based on the presentation of quickly gathered information about the defendant. In one experiment where this was done, the release rate was quadrupled. Because of early successes, the number of non-bail releases has increased and the failures through this method are as low, if not lower, than bail forfeitures. In either case the rate is extremely low and supportive of the notion that more people than at present can be released pending trial.

7. What about pre-trial release for the juvenile? Although pre-trial release procedures differ for the juvenile, similar kinds of issues remain. Most official statistics reveal that the majority of juveniles who are eventually processed by courts and incarcerated in training schools are the children of working-class families. Yet, there is also a growing body of evidence that middle-class juveniles may be as heavily involved in delinquency as their working-class counterparts. If this is the case, then factors other than guilt or innocence—lack of family resources, low literacy skills, parental neglect, poverty—predispose the lower-class child to heavier involvement in legal and correctional machinery than the middle-class child. Should this be the case?

The Second United Nations Congress on the Prevention of Crime and the Treatment of Offenders recommended in 1960 that juveniles should not be prosecuted for behavior which, if exhibited by adults, would not be prosecuted, and that many problems of neglect, truancy, and obstreperous behavior should be dealt with by agencies other than the courts.

In our shift from a rural to an urban society, we may have placed too much reliance on police and courts to correct problems which in an earlier day were informally controlled by family and neighborhood. The all-encompassing powers of the juvenile court were created with good intention, but once a juvenile is started down the legal track it is hard to get him untracked. The point is not that the young criminal should be ignored but that better criteria and other mechanisms should be established for separating him from the poor, the uneducated, the neglected, or mentally ill youth. Even where the two overlap, the choice of legal machinery may not be the most desirable.

THE POST-TRIAL PERIOD

The post-trial period is a second port-of-entry into the correctional system. If incarceration can be avoided, the problems of reintegrating the offender are minimized; if he must be locked up, they are made vastly more complex. Recognizing this, the trend in recent years has been away from incarceration and toward other alternatives.

Probation is the most common alternative and is quite commonly used in conjunction with such other sanctions as the fine and suspended sentence. Since probation usually represents a minimal form of supervision and yet is used for adult felons as well as juveniles, several questions are in order:

1. *How extensively is probation used?* The preponderant majority of all juvenile, first-time offenders and anywhere between one-third and two-thirds of all adult first-time felons, depending upon the jurisdiction, are placed on probation. Undoubtedly, it is used for smaller proportions of these groups even for the first offense.

2. *How successful is probation?* Results reported from various States and foreign countries place the success rate at between 60 and 90 percent, with the modal figure at about 75 percent. These results were not always gathered in carefully controlled studies, but the findings were so uniform and relatively high that they imply some validity. As such, therefore, they raise some important policy issues.

3. *What proportion of those now being placed on probation could do just as well on a less formal disposition?* It is nonsense to always think in terms of increasing services to all offenders when the high probation success rate implies that some offenders are "self-correcting" and can benefit from minimal sanctions. The problem, of course, is in defining who these people are; it cannot be solved without more concentrated study.

4. *What proportion of those who now fail on probation would succeed if resources could be reallocated in some more efficient way?* Or, to broaden the question, how many incarcerated offenders could be dealt with safely in the community? Responses to this problem fall into two categories. The first involves relatively simple and mechanistic changes in correctional policies and practices; the second requires more elaborate programming.

One very elemental device that has been used for avoiding imprisonment for the adult misdemeanant, or perhaps the juvenile, is to provide for the payment of fines or restitution by installment. The second is the work furlough. Under this alternative the offender is confined to jail at night or on weekends but is permitted to maintain his job during the day. Incarceration does not totally disrupt his economic and domestic life.

There is nothing new about either of these alternatives. Where they have been practiced they seem to have had reasonably good results, certainly better results, and at less cost, than total incarceration. It is not always necessary to conceive of alternatives to incarceration as requiring complex, therapeutic strategies, and more consideration should be given to steps such as these.

In terms of more complex programming, several relatively new programs with juveniles have been tried with rewarding results. Subjects in each case have been probation failures and candidates for incarceration. One type of program has involved intensive daily, nonresidential treatment. The other type has involved residential treatment in an open setting, often in the community. At least three of the programs have been set up using an experimental design in which experimental and control groups were chosen.

The results in each case favored the community programs over traditional incarceration by wide margins. And what is equally important is that the cost in most cases for the community programs, intensive though they were, was considerably below the cost of incarceration, leaving much more latitude at no increase in cost for the improvement of program content.

Similar experiments for adults have been less common but some are now getting under way. If the pattern for these programs is the same as that for juveniles, it suggests that the answer to the question posed above is that community resources can be used at a fraction of the cost of, and with results that are better than, total incarceration. But despite the encouraging nature of this possibility, it would be unwise to recommend vast changes without thought to a number of key issues.

The community experiments for juveniles are extremely important because some of them, at least, were conducted under experimental conditions. They constitute an extremely important breakthrough in corrections because they provide a more factual basis upon which to proceed than the myths and intuitive feelings that have been the basis for action in the past. Nevertheless, they leave far more questions unanswered than answered.

It is hard to generalize too broadly from them because there are no generally valid offender typologies. Therefore, it is impossible to say exactly on what types of offenders they would be successful and on which they would not. As alternatives to incarceration are developed, more must be done by way of trying to relate types of offenders to types of programs, types which, in both cases, extend from simple to complex. Just as it would be foolish to try to treat a dangerous offender in a simple way, so it would be foolish to submit nondangerous offenders to extremely complex, costly, and exhaustive programming.

It is difficult to transpose experimental programs from one setting to another because so few measures of quality control have been inserted into correctional programs, measures which would do a more effective job of saying whether, in fact, programs are implemented in the same way as they are described on paper.

Not enough thought has been given on a conceptual basis to the profound problems involved in altering institutional structures. If there is one thing that these new programs have discovered it is that the task of altering existing institutional arrangements—educational, economic, legal, political, and social—so as to do a more efficient job, are as complex as altering the offender himself. These institutions resist change and make the correctional problem difficult indeed.

Finally, information systems about offenders are inadequate. It is very difficult outside of narrow jurisdictions to evaluate success and failure rates. If an offender leaves a jurisdiction, if he resides in an area in which records are not kept systematically, one cannot determine with accuracy what his behavior has been.

All of these issues point to the need for a systematic strategy of search as a means of providing guidelines to whatever new developments take place in corrections. All of the issues relative to that strategy cannot be explicated here, but more will be said about them later in the section on emergent issues.

THE POST-INCARCERATION PERIOD

If there is one period in the entire correctional process with which there is universal dissatisfaction, it is the post-incarceration period. The problems of the newly released inmate are profound. Not only did a national survey confirm the likelihood that he will be penniless upon his release and dependent upon the charity of others, but he must also attempt a new career while bearing the stigma of a criminal record.

Feeling that these conditions would almost predispose the parolee to failure, several measures for easing his return to the community have been suggested. They have been upheld as alternatives to incarceration, first, because they are so crucial and, second, because some are used instead of incarceration.

The most prevalent alternative, of course, is parole. Few offenders will serve their complete sentences in prison but will have them shortened in favor of supervised release on parole. There is a general feeling, however, that parole as it is now practiced is not an adequate alternative. The most commonly recommended solution to this dissatisfaction, therefore, is lower caseloads and increased casework services. Unfortunately, this suggested solution is based not on fact but subjective impression.

Parole, like probation, is a casework service whose strengths have not been maximized and weaknesses minimized because of the dearth of experimentation. And what little evidence there is available would not support a general, across-the-board increase in parole services but would suggest that only through modification of specific services, for specific offenders, might results be changed.

The picture is further complicated by Glaser's documented disagreement with the prevailing belief that two-thirds of all offenders committed to prison will fail and eventually be returned. He presents convincing evidence that the figure is only half as large, one-third instead of two-thirds. Previous estimates, he says, were mistaken because they were based, not upon the total population of men passing through prison, but upon the population of men found in prison at any single time. The latter population presents a biased picture because two- and three-time losers receive longer sentences and tend to accumulate in prison. As a result, when one looks only at the population in prison rather than the total passing through, he gets a distorted picture.

The point is that, even if Glaser is only partially correct, there is greater reason to distinguish among types of parole services, extending all the way from simple to complex.

California research suggests that there are some parolees who need very little supervision and others a great deal. This does not mean that the former could not benefit from some kinds of economic help, job counseling, or vocational training; but apparently they do not need intensive therapy or supervision. The unfortunate facts are, however, that we do not possess adequate knowledge by which to distinguish among parolees so as to maximize the use of a variety of alternatives. And, what is more, we do not possess adequate facilities by which to deal with a variety of parolees.

A number of recommendations have been made. Some begin with such relatively straightforward, sensible things as systematic pre-release orientation counseling loans, and unemployment insurance or subsistence pay as long as the parolee-trainee is successfully completing a job training course. Others might include the former, but add halfway house facilities in the community as well and perhaps even a series of such other services as psychiatric help, group counseling, family therapy, and temporary detention facilities, all located in a single correctional complex.

Some or all of these activities are being tried in relatively unsystematic fashion in a variety of jurisdictions, but few have been tried under experimental conditions. The dearth of research in this area may be greater than in any other. Two different tests of halfway houses on two different populations were tried and present mixed results, one seeming to have been helpful, the other doing no better than regular parole.

The problem of improving correctional efficiency in this area, however, is not just that of comparing success and failure rates for experimental and control groups, but of conceiving of post-incarceration alternatives in new terms. An effective halfway house, for example, may require more than a collection of parole agents, each of whom operates his individual caseload out of the house. Similarly, the task of bridging the gap between the correctional program and other community agencies requires change in the community as well as the parolee.

A successful program must act as a community change-agent and mechanisms must be built by which to accomplish this. In terms of the need for post-incarceration alternatives, therefore, it would be a tragic mistake to set up programs whose sole mission was that of providing therapy to the inmate. He constitutes only half the problem; the other is structural and related to existing arrangements, economic, social, or otherwise, which make it difficult for the offender to be reintegrated into the community.

EMERGENT ISSUES

The forces which have supported the trend toward community alternatives to incarceration are: the sheer size of the offender population which, as society itself continues to grow, makes the endless expansion of correctional institutions too costly to bear; the fact that imprisonment by itself has not proven adequate; and an increasing body of evidence which suggests that many offenders can be successfully corrected without the need for incarceration.

But despite a rather general acceptance of this trend, there are many unanswered questions which demand consideration. If the current revolution in corrections is to be more rational, if it is to avoid the mistakes of the past, and if society is to be protected, the revolution must be concerned with a number of issues.

Corrections as a system

The first issue has to do with the total correctional apparatus as a system. It was pointed out earlier that there is a tendency to think primarily of imprisonment and what happens after the establishment of guilt in a court as totally representative of corrections. But this is a very limited view. The operation of the correctional process actually begins with the first contact between the alleged offender and the police, and may not end until it culminates eventually in parole. Between these two poles is a host of decision points and correctional alternatives, each of which influences, and is influenced by the others.

In this analysis, for example, it was shown that in several different jurisdictions the early decision, either to detain or release the accused person prior to trial, profoundly affects what happens to him thereafter. If he is detained, he seems far more likely to be convicted and imprisoned than if he is released.

The decision apparently sets other forces in motion which may have little to do with actual guilt or innocence of the offender. If that is the case, then such occurrences say very little about offenders, but a great deal about our system of justice. They suggest that not all problems are created by offenders. Legal machinery may itself be problematic, adding to, as well as mitigating crime problems.

Obviously our fund of knowledge regarding such issues is inadequate. Two things are needed. The first is better knowledge about the key decision points in the correctional process, where they are, what alternative choices are available, and who chooses among them. The second is an information system which can be used to assess the effects of the decisions that are made. In the case of pre-trial detention, for example, we do not know whether the higher conviction and imprisonment rate of the detained offender is ultimately more efficacious in deterring him from further crime than is the greater freedom enjoyed by the defendant who is not detained. Is he any less likely to repeat than the offender who is not processed through the whole system?

Answers to this and other questions are needed as a data bank upon which to build a more rational correctional strategy. The police, for example, are generally inclined to favor pre-trial detention and before they would be willing to change this preference and to support other alternatives to detention, they would have to be convinced by evidence that their preference is in error.

Any increased use of alternatives to incarceration, whether planned or unplanned, will greatly alter the existing system. The expansion of community facilities, for example, and better criteria by which to select offenders for them, could easily decrease the success rate of both prisons and parole because they would screen out the offenders most amenable to change and pass on only those who are the most difficult. Perhaps this is as it should be, but if these steps are taken, they should be taken with some cognizance of the fact that they will have impact, sometimes negative, upon other segments of the system.

RESEARCH AND EXPERIMENTATION

It seems clear that our correctional policies and activities are being formulated, like those in previous years, without the benefit of comprehensive planning and systematic evaluation. They are guided by a kind of intuitive, goal-oriented guessing which was defined earlier as a strategy of activity. Such a strategy is inefficient in the long run because it does not set up any kind of search sequence; that is, it does not begin first with an attempt to define the parameters of whatever problem is under consideration and then of organizing the logical possibilities for attacking it.

An ideal correctional system would be one in which types of offenders were matched successfully with types of programs. On one hand, society must be protected against the incorrigible offender but, on the other, it should not make the problem worse by locking up those who would do better in the community. The need to isolate types of offenders works both ways. As well as identifying those who must be kept out of community programs, it is equally important to identify those who should be kept in them.

A coherent system of alternatives would range from nonsupervisory measures such as fines and the suspended sentence, through increasingly structured community programs, to total incarceration. Hopefully, such a system would result in a more effective and economically efficient allocation of correctional resources. It is possible that a heavier concentration of community alternatives might be run at no extra cost simply by reducing the number of people who are incarcerated.

The development of any such system would require increased knowledge about several dimensions. The first would involve more discriminating criteria by which to classify offenders according to: those who are essentially self-correcting and do not need elaborate programming; those who require differing degrees of community supervision and programming; and those who require highly concentrated institutional controls and techniques. Attempts to develop criminal typologies in the past have not been notably successful and, for that reason, research in this area is of crucial importance.

Second, the introduction of new programs implies considerable alteration in correctional organizations as they have operated in the past. Organizational research, therefore, is the second type that is needed. For example, an everpresent problem in correctional organizations is the schism between inmates and staff. The official segment of the organization is vested with complete authority and ostensibly retains power over all important decisions. But this is a myth. "Juxtaposed with the official organization of the prison," says Schrag, "is the unofficial social system originating with the institution and regulating inmate conduct with respect to focal issues such as length of sentence, regulations among prisoners, contacts with staff members and other civilians, food, and sex, among others." [1]

This state of affairs operates to a greater or lesser degree in every correctional setting. On one hand, offenders bring nonconformist patterns with them to the correctional setting. Added to these are other nonconformist patterns—the "inmate code"—which are generated by the processes of mortification and dispossession of the correctional organization itself.[2]

On the other hand, the positions which staff members occupy, the bureaucracies of which they are a part, and the conflicting expectations of society all constitute obstructions to change. They are the traditional counterparts of the nonconformist patterns of offenders and, like traditions of any type, resist change and reinforce the status quo. Both inmate and official patterns have to be changed, therefore, and that is why a commitment to organizational studies is so important. We must have more specific information as to the kinds of changes that are needed and where they can be made.

Third, we need experimental models by which to organize and test new correctional efforts. Scientific theory and research findings by themselves are only suggestive. They do not indicate with specificity what kinds of organizational changes are needed, exactly how staff members should behave in order to bring them about, or how different parts of the organization should be related together. These things must be tried out and developed gradually. But far more can be done to approach the task in a disciplined way than has been done in the past. A review of the whole correctional field reveals a remarkable dearth of experiments in which theory, action, and research are joined together effectively. Both the professions and the social sciences are without the traditions and the experience by which experimentation is facilitated.

In the absence of such traditions, it is difficult to suggest what the necessary elements of an experimental model might be. But, logically, certain elements are implied by their very nature:

1. Statement of Objectives. In many correctional settings, consensus on objectives is lacking. Correctional workers disagree as to whether their main concern is with custody, treatment, vocational education, or some other objective. And when there is no consensus on objectives, there is no logical means for choosing one approach over another, one kind of staff over another, one program component over another. It would not make sense to initiate an experimental effort unless objectives were made explicit and a set of priorities chosen.

2. Theoretical Assumptions. As mentioned above, the data that are obtained in any problem-identification process do not provide answers for correctional problems; they only isolate crucial issues and areas. Therefore, a second basic element that would be necessary would be a series of theoretical assumptions regarding the nature of the problems that are identified: What are the problems? What causes them? What should be done about them?

A carefully developed theoretical base would constitute an indispensable part of any experiment because it would provide the framework within which both action and research components would operate. It would lend meaning to both by specifying the characteristics of both people—offenders and staff—and organizations with which the experiment is expected to deal.

3. Program Strategy. Once a set of assumptions is chosen from the various logical alternatives, the next step in implementing an experimental program would be making these assumptions operational for action and research purposes; that is, reducing them from abstract to operational terms and translating them into the kinds of functions which a staff and its organization are expected to perform. This is a most difficult task concerned with making clear what factors—attitudes, group variables, organizational characteristics—are to be altered and how they are to be altered.

This step is one in which the collaboration of the scientist, policy maker, and professional is vitally needed. The difficulties inherent in trying to operationalize theory are great and, in the past, have rarely been overcome successfully. It is virtually impossible to demonstrate that various correctional staff members share any common conceptual framework, even for experimental purposes, by which they organize their efforts and, furthermore, that they actually perform their functions as they say they should perform them.

4. Research Design. The fourth major component would be research. Research, ideally, would be tied to the other components of the experimental model in such a way as to contribute most effectively to the derivation of knowledge about the particular correctional approach under question. It would flow, logically, like the action program, from the particular set of theoretical assumptions around which the action program is organized. Research would be of greatest value if it could contribute knowledge in three main areas: about the adequacy of basic assumptions, about the nature and problems of the program itself, and about its outcome.

5. *Research Feedback.* The final element of any experimental model would be a feedback system by which the findings of any endeavor could be communicated, and their implications assessed, for both action and research people. The importance of this particular element cannot be overestimated because of the tremendous difficulties inherent in maintaining collaboration among administrative, professional, and research people.

Research feedback is vital in two ways; first, as a method of quality control by which to insure that a program operates as closely as possible to theoretical design, and second, as a method of contributing to knowledge and future experimentation. At present, experimental programs tend to be discrete entities with little continuity from one program to another. By contrast, it might be hoped that, with greater dedication to research, one experiment might provide the basis upon which another is based.

The final research resource that would be needed in the development of a comprehensive correctional system would be a central data repository. Such a repository is needed as a method of evaluating the performance of offenders after their release from correctional programs. Until such repositories are available, it will be impossible to conduct followup studies across jurisdictional lines, to evaluate parole performance, for example, on a national basis. Furthermore, depending upon the data collected, a data repository could be used to indicate more precise information on release problems and successes than the singular factor of law violation. It would obviously be a necessary element in the development and evaluation of various alternatives to incarceration.

SOCIAL RECONSTRUCTION

Official statistics reveal that members of ethnic groups, the working class, and the poorly educated, are over-represented in our offender populations. These statistics imply that criminality represents not only some form of psychological alienation on the part of the offender, but social, economic, and political alienation to which society itself contributes. The solution to criminality, therefore, requires, on one hand, some internal change on the part of the inmate, but on the other, some social reconstruction, some alteration in the opportunity structures of the community.

Unless the schools, employers, other social groups, and community institutions make provision for offenders to try out new and legitimate roles, they will remain locked in a delinquent status over which they have no control. No matter how hard offenders try to discard delinquent roles, they cannot succeed unless the perceptions of them change also. Therefore, if community programs are to succeed, they must address these issues.

The obstacles are great and are both philosophical and practical. Philosophically, the justifications for punishment are still very much a part of our tradition. Criminality is seen as being the result of a deliberate defiance of society's norms. The offender, therefore, deserves to suffer. Furthermore, the philosophy suggests that a member of society who violates social rules threatens the stability of that society. The criminal must be punished if conformists are to feel safe. The offender should be made unenviable to conformists. Punishment is necessary in order to prevent social demoralization.

By neutralizing the criminal as a possible role model, punishment serves a social control function. The inhibition of his own anti-social impulses by the law-abiding citizen are made to seem worthwhile. At least he will not be punished. If he resists the temptation to do what the group prohibits, to assault an enemy, to drive while drunk, to steal, he would like to feel that these self-imposed controls have some meaning. Punishment provides the meaning. Through it, the conformist is able to deny the validity of deviance.[3]

The adoption of a "treatment" philosophy does not necessarily change this philosophical stance. Whether the offender's behavior is defined as wicked or pathological, the result is much the same. Putting the offender into some form of "treatment" validates a diagnosis of undesirability. There is some doubt as to whether the problem is correctible, as to whether it is a permanent malignancy or temporary disability. Thus, quite apart from any pro-social inclinations the offender may have, the punishment philosophy exerts an influence which may make his acquisition of full citizenship extremely difficult. He cannot officially discard his criminal record; he cannot vote in certain States; he cannot obtain certain kinds of insurance; he finds it hard to register in many schools or to be accepted in social circles other than delinquent.

It is obvious why, with philosophical underpinnings of this type, community programs are often resisted. They threaten to make the role of the offender fuzzy. His undesirability is no longer quite so clear. There is lingering doubt about an approach which does not include some form of degradation and which will make his position clearly unenviable. He may no longer seem to be an object lesson to the conformist.

What is worse, an emphasis upon social reconstruction through community programs infers other causes for crime than deliberate defiance of norms or personal pathology. They imply that offenders are not born bad but that they are a mirror of their environment—basically their homes, secondarily their communities. They transfer some responsibility to society. And, while it is relatively easy to accept the notion that in order to prevent crime an attack should be levied upon the social institutions which condition young people, it is much more difficult for people to transfer that thinking to the reintegration of known offenders. The notion violates the standards by which society has reacted to offenders for centuries.

There are many symptoms of the problem. One is the offender's relationship to correctional personnel. Staff members in all of the helping professions—not just in the area of crime and delinquency—have a symbiotic relationship with their clients which is subtle and paradoxical. Their professional statuses, their "helping" roles, the powers they have to manipulate their delinquent "clients" depend upon the "client" remaining in a subordinate position. The paradox is, therefore, that this superordinate-subordinate relationship between professionals and clients makes it difficult for clients to change unless the relationship changes also. The classic example of this problem is that of the inmate in prison. Literally, he has no other major social role but that of inmate. He is in a caste system in which, no matter how many personal changes he might make, he cannot alter his basic status. Unlike many other social systems, he cannot begin at the bottom and, through his own diligent efforts, occupy increasingly important positions. Until the prison as a social system is changed, therefore, the inmate can be nothing other than an inmate.

Since the announced objective of correctional programs is to make the offender a self-sufficient and responsible person, this kind of situation is obviously problematic. Being a criminal is a social role, not just a personal feeling. Before the offender can change, there must be some alteration in the social structures which inhibit change. Logically, such changes should begin first within correctional programs themselves. They are societal microcosms, but they must also be extended to the community. In addition to the need for offenders to struggle with, and do something about, their own behavior, people and institutions in the community must also be altered. Just as traditional staff-inmate roles in a prison can inhibit change, there are numerous ways in which the same phenomenon can be observed in the community. For example, a neighbor to the Silverlake Experiment excitedly called one of the staff members after he had seen some of the boys on their way to school. "Those boys," he said, "look dangerous. Aren't we taking too big a risk to even have them around?" The boys had not committed a dangerous act but their statuses were already fixed.

This problem could be described in numerous other ways. But without further examination, a good hypothesis might be that, if society desires complete separation from offenders, then it can expect only limited success in changing them. If, on the other hand, it demands more extensive changes, then the factors within our institutional structures, as well as those within offenders which inhibit change, must also be altered.

The field is not without some experience. In the Provo Experiment, for example, it was decided to try using offenders as supervisors for the crews that worked in the city. Initially, the change resulted in anxiety and confusion. Boy supervisors now found themselves in the roles of adults attempting to exercise control over their peers. But eventually, this gave them some important new insights. Boys began to recognize for the first time some of the pressures they had put previously upon those who had tried to control them. The work improved and the attitude of the boys changed. They could no longer place the blame for any problems that arose on the adult supervisors, so that in group sessions there was a more realistic examination of what the problems actually were and what it meant to be an adult rather than a child.

On the other hand, the change was not without difficulties. Careful checks were necessary; time had to be spent maintaining communication with city work foremen who were legitimately concerned about their legal responsibilities, the age, the mode of dress and speaking of many of the offenders. But the contribution made by the work crews eventually won over some city officials with two important consequences. First, a similar work program was established for nondelinquent youth and, second, some of the former delinquent boys were hired as work supervisors. Not all graduates of the Experiment could perform the supervisory functions but several could, and the change meant an important alteration in social and work roles.[4]

Possibly the most significant innovations in education are occurring at the Draper Correctional Center, a medium-security facility for youthful offenders at Elmore, Alabama. This facility runs "the only full-time, self-instructional school in the country."[5]

The school is being conducted largely by nonprofessionals with overall supervision and direction provided by professionals. Direct assistance to the students is offered by a team of inmates, called the Service Corps, and a team of college students, called the College Corps.

Rather than using traditional educational techniques, techniques with which most youthful offenders have had very bad experiences, programmed instruction (teaching machines) is used. The inmate Service Corpsmen spend half the day as students in the school; the remainder is devoted to program assignments. Some perform clerical functions, one acts as a librarian, another serves as a guide to visitors, but the majority are subject-matter counselors. They assist other students in the classroom, keep progress charts, determine when students are ready to take tests in a particular course, and provide help with any other problems that may arise. These Corpsmen are chosen not only on the basis of their competence, but their demonstrated adherence to a law-abiding, rather than a criminal code.

Besides the Corpsmen, other inmates are being trained to do professional service. One group of inmates is being trained to become technical writers. Using their extensive experience with programmed instruction, these writers are developing aids to instruction which have not been in existence before.[6]

This is but a segment of the work that is going on but is enough to illustrate the profound significance of this kind of activity. Not only is it potentially capable of increasing the personal skills of offenders but of providing rewards through participation in activities which would ordinarily not be open to them. One basic issue, therefore, is how many activities might be transferred to schools and other institutions in the community. The problem is not a simple one because of the heterogeneity of offender types. Obviously, this kind of help cannot be limited to prisons, but should be extended to broader offender populations.

One final example of attempts at social reconstruction is the effort being extended to open up new careers for problem people. In California, Douglas and Joan Grant have operated an experimental project in which inmates are trained to perform socially necessary functions, research and welfare tasks being examples. This training is followed by the incalculably valuable service of trying to open up opportunities in both governmental and private organizations. One of the paradoxes of the contemporary scene is that while the private sector of the economy is being urged to employ offenders, the governmental bodies, of which corrections is a part, are unwilling to do so. Civil service requirements prevent employment in nonsensitive, as well as sensitive positions. They will have to be changed if opportunities for offenders are to be enlarged.[7]

In a similar vein, the Center for Youth and Community Studies at Howard University has been training problem youth to become "aides" of various kinds: community mental health aides, teacher aides, welfare aides, legal aides, recreation aides. These "aides" would function as "subprofessionals" taking on a number of the tasks which professionals now perform but which, because of their nature, could be performed just as efficiently by people with less training. Just as medical and dental technicians now aid in the medical field, so these "aides" could carry out important functions in other areas. Furthermore, they would be trained for jobs in which there is now a shortage of personnel. The helping professions constitute one sector of the economy which is growing and in which people are badly needed.

One obvious strength of endeavors as those at Draper, Howard, or California is in their concentration upon new opportunities and provocative kinds of training: programmed instruction, research methods, social service occupations, sensitivity training skills. Rather than making a frontal attack upon correctional caste systems, the attack is indirect. From an official standpoint, from the standpoint of the public, "vocational" training, even if new, is more tolerable because it does not threaten traditional concepts. Attempts to educate or train are not so likely to be opposed as radical moves to reorganize correctional methods in general.

From the inmate standpoint, such activities are a means of tying personal reformation to social reconstruction. They open up legitimate opportunities within the correctional setting and, at the same time, seem to promise something better after release. Thus, staff and offenders have a chance to try out something new without having to deal immediately with all of the latent obstructions that divide them. Inmates, especially, can be challenged by the intellectual excitement of attempting activities in which they have either failed previously or to which they have never had access. Their attention can be turned from efforts to "beat the system" to matters which may not only be rewarding within the correctional organization but outside as well.

CONCLUSION

Given all of the innovations that are now being developed, the ingredients are probably available for a more efficient development of alternatives to incarceration. But taken singly, these innovations would not constitute a solution to the correctional problem. Ways must be sought by which to relate them together in some systematic way. Thus, what is needed is a long-range perspective and the commitment of resources which would result in a better understanding of the whole correctional process, a better conception of the key decision points in that process, the development of more specific kinds of programs for specific kinds of offenders, and a careful study of whatever steps are taken to improve the system. The changes that are needed, therefore, are philosophical as well as practical. Political, economic, and humanitarian pressures which impel society to "do something" must be accompanied by a more disciplined recognition of the complexities involved and the need for careful study of whatever steps are taken.

FOOTNOTES

1. Clarence Schrag, "Some Foundations for a Theory of Corrections," in Donald R. Cressey, editor, *The Prison: Studies in Institutional Organization and Change*, New York: Holt, Rinehart and Winston, 1961, p. 329.

2. There are a number of important works dealing with the prison, "inmate subculture" and obstructions to change. Some examples are: Richard A. Cloward, Donald R. Cressey, George H. Grosser, Richard McCleery, Lloyd E. Ohlin and Gresham M. Sykes and Sheldon L. Messinger, *Theoretical Studies in the Organization of the Prison*, New York: Social Science Research Council, 1960; Donald R. Cressey, editor, *The Prison, op. cit.*; Gresham M. Sykes, *The Society of Captives*, Princeton: Princeton University Press, 1958; and Donald Clemmer, *The Prison Community*, reissued edition, New York: Rinehart, 1958.

3. For a thorough discussion of these issues, see Jackson Toby, "Is Punishment Necessary," the *Journal of Criminal Law, Criminology and Police Science*, 55 (Sept. 1964), pp. 332–337.

4. LaMar T. Empey, Maynard L. Erickson and Max L. Scott, "The Provo Experiment in Delinquency Rehabilitation," 5th Annual Progress Report, 1963–64, mimeographed.

5. John M. McKee, "Reinforcement Theory and the Convict Culture," Experimental Project in Education and Rehabilitation, Draper Correctional Center, Elmore, Alabama, Sept. 1964.

6. For other papers see John M. McKee, "A Treatment Culture for the Convict Culture," paper presented at the 94th Annual Congress of Corrections, American Correctional Association, Kansas City, September 1, 1964; and "The Draper Experiment: A Program Learning Project," in *Trends in Programmed Instruction*, Gabriel D. Ofiesh and Wesley C. Meierhenry, editors, National Education

Association, Washington, D. C., 1964, pp. 92–97; and Judith G. Benjamin, Marcia K. Freedman, and Edith F. Lynton, *Pros and Cons: New Roles for Professionals in Corrections*, New York: National Committee on Employment of Youth, 1965, pp. 56–61.

7. As example, see "New Careers Development Project: Operational Procedures," California Department of Corrections, Sacramento, California, January 11, 1965, mimeographed; "New Careers for the Poor: Some Examples," California Department of Corrections, New Careers Development Project, Sacramento, October 26, 1964, mimeographed; "New Careers Development Project," California Department of Corrections, Sacramento, September 23, 1964.

☆ U.S. GOVERNMENT PRINTING OFFICE: 1967—0 243-026